THE

MISCELLANEOUS DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

SECOND SESSION OF THE FIFTY-SECOND CONGRESS.

1892-'93.

IN EIGHT VOLUMES.

Volume 1.—Nos. 1 to 69, inclusive, except Nos. 15, 53, 57 64, 65, 66, 67, and 68.
Volume 2.—No. 15.
Volume 3.—No. 53.
Volume 4.—No. 57.
Volume 5.—Nos. 64, 65, and 66.
Volume 6.—No. 67.
Volume 7.—No. 68.
Volume 8.—No. 70.

WASHINGTON:
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1893.

INDEX

TO

THE MISCELLANEOUS DOCUMENTS

OF

THE SENATE OF THE UNITED STATES

FOR

THE SECOND SESSION OF THE FIFTY-SECOND CONGRESS.

52D CONGRESS, 2d Session. } SENATE. { MIS. DOC. No. 68.

PRECEDENTS

RELATING TO

THE PRIVILEGES OF THE SENATE

OF

THE UNITED STATES.

COMPILED BY

GEORGE P. FURBER,

CLERK TO THE COMMITTEE ON PRIVILEGES AND ELECTIONS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1893.

SECRET SESSIONS.

The first sessions of the Senate were held with closed doors. As early as April 29, 1790, however, efforts began to be made to open the doors when the Senate was acting in its legislative capacity. At each succeeding session the attempt was renewed. February 11, 1794, the Senate voted to admit the public during the discussion of the contested election of Albert Gallatin, and on the 20th of the same month it was decided to open the doors after the beginning of the next session during the discussion of legislative business. At the same time the rule was established that on motion to close the doors, duly seconded, when in the opinion of any member secrecy was demanded in the discussion of any matter, the galleries should be cleared and remain cleared until the determination of the motion.

From the first, treaties have been considered in executive session, and there have been few attempts to change the practice.

December 22, 1800, the President communicated to the Senate the instructions to the envoys to the French Republic with a request that they be considered in strict confidence. The Senate thereupon voted that all such confidential communications and all treaties should be kept inviolably secret until the Senate removed the injunction of secrecy. But few attempts have been made to change this practice save in the case of treaties with Indian tribes.

Numerous efforts, however, have been made to end the executive sessions, excepting so far as they are concerned with treaties or other specially confidential matter. In 1841 Mr. Allen, of Ohio, began a series of persistent attacks on the system, but without avail. In 1853 Mr. Chase, of Ohio, took the question up, but without result. The question has been discussed several times since, notably in 1886, when the subject received very full consideration, but no change in the practice has been effected.

The duty imposed upon the members by the injunction of secrecy has been the subject of two carefully considered reports which are printed below, together with the rules relating to this subject.

1. FOR THE CONSIDERATION OF LEGISLATIVE BUSINESS.

2d sess. 35th Cong., J. of S., 96.] JANUARY 4, 1859.

[Extract from the address of Vice-President Breckinridge previous to leaving the old Senate Chamber for the new.]

At the origin of the Government, the Senate seemed to be regarded chiefly as an executive council. The President often visited the chamber and conferred personally with this body;* most of its business was transacted with closed doors, and it took comparatively little part in legislative debates. * * * To such extent was the idea of this exclusion carried, that when this chamber was completed no seats were prepared for the accommodation of the public; and it was not until many years afterward that the semicircular gallery was erected which admits the people to be witnesses of your proceedings. * * * In this chamber about one-third of the space is allotted to the public; and in the new apartment the galleries cover two-thirds of its area.

Const. U. S., Art. I, sec. 5, cl. III.]

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as in their judgment may require secrecy.

* See p. 21 for the only instances of conference between the President and Senate recorded in the Journal.

1 J. of S., 135.] APRIL 29, 1790.

On motion that the doors of the Senate shall be open when they are sitting in their legislative capacity, to the end that such citizens of the United States as may chuse to hear the debates of this House may have the opportunity of so doing,

[Consideration was postponed until next day, and on the next day],

The question being taken, it passed in the negative. (Ib., 136.)

1 J. of S., 281.] FEBRUARY 24, 1791.

It was moved that the Senate agree to the following resolution, to wit:

Resolved, That it be a standing rule that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a legislative capacity, except on such occasions as in their judgment may require secrecy, and that this rule shall commence and be in force on the first day of the next session of Congress.

Resolved, That the Secretary of the Senate request the commissioners of the city and county of Philadelphia to cause a proper gallery to be erected for the accommodation of the audience.

[The next day the motion passed in the negative—yeas 9, nays 17.]

1 J. of S., 415.] MARCH 26, 1792.

A motion was made by Mr. Munroe, and seconded by Mr. Lee, as followeth:

Resolved, That it be a standing rule that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in their legislative capacity, except on such occasions, as in their judgment, might require secrecy, and that this rule shall commence and be in force on the first day of the next session of Congress.

It passed in the negative—yeas 8, nays 17.

1 J. of S., 429.] APRIL 18, 1792.

On motion of Mr. Few, seconded by Mr. Gunn,

That when the Senate be sitting in their legislative capacity the members of the House of Representatives may be admitted to attend the debates, and each member of the Senate may also admit a number not exceeding two persons: *Provided*, The operation of this resolution be suspended until the Senate Chamber is sufficiently enlarged.

It passed in the negative—yeas 6, nays 16.

1 J. of S., 467.] JANUARY 3, 1793.

A motion was made and seconded that the Senate adopt the following resolution, to wit:

Resolved, That the Senate of the United States are individually responsible for their conduct to their constituents, who are entitled to such information as will enable them to form a just estimate thereof.

Resolved, That the Journals are too voluminous and expensive to circulate generally, and if it were otherwise, that the information they contain as to the principles, motives, and designs of the individual members is inadequate.

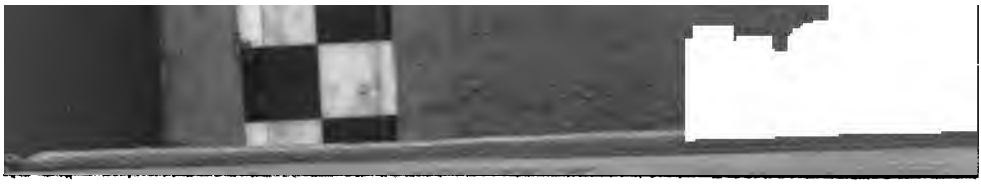
Resolved, That this information, defective as it is, becomes more inadequate and delusive as occasion for it increases, since the Senate make their own Journals.

Resolved, That the conducting of the legislative and judicial powers of the Senate in public, and suffering an account of their measures and deliberations to be published in the newspapers is the best means of diffusing general information concerning the principles, motives, and conduct of the individual members, and that by withholding this information responsibility becomes unavailing, the influence of their constituents over one branch of the legislature in a great measure annihilated, and the best security which experience has devised against abuse of power and maladministration abandoned.

Resolved, therefore, That it be a standing rule that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a legislative capacity, except on such occasions as in their judgment may require secrecy; and that this rule shall commence and be in force on the first day of the next session of Congress.

Resolved, That the Secretary of the Senate request the commissioners of the city and county of Philadelphia to cause a proper gallery to be erected for the accommodation of an audience.

[A motion that the resolves be printed was lost, but it was ordered that they lie on the table and that they be considered on the first Monday in February. February 4, 1793, the preliminary resolutions were passed in the negative—yeas 7, nays 21; and on the main question to open the doors the vote was—yeas 10, nays 18. The last resolution was also defeated. (1 J. of S., 478.)]



2 J. of S., 22.] JANUARY 16, 1794.

On motion by Mr. Martin,

That the Senate adopt the following resolutions:

Resolved, That in all republican governments the representatives are responsible for their conduct to their constituents, who are entitled to such information that a discriminating and just estimate be made thereof.

Resolved, That the Senate of the United States, being representatives of the sovereignties of the several States, whose basis is the people, owe equal responsibility to the powers by which they are appointed, as if that body were derived immediately from the people, and that all questions and debates arising thereupon in their legislative and judiciary capacity ought to be public.

Resolved, That the mode adopted by the Senate of publishing their journals and extracts from them in the newspapers is not adequate to the purpose of circulating satisfactory information. While the principles and designs of the individual members are withheld from public view, responsibility is destroyed, which, on the publicity of their deliberations, would be restored, the constitutional powers of the Senate become more important in being more influential over the other branch of the legislature; abuse of power, maladministration of office more easily detected and corrected; jealousies arising in the public mind from secret legislation, prevented; and greater confidence placed by our fellow-citizens in the National Government, by which their lives, liberties, and properties are to be secured and protected.

Resolved, therefore, That it be a standing rule that the doors of the Senate chamber remain open while the Senate shall be sitting in a legislative and judiciary capacity, except on such occasions as in their judgment may require secrecy, and that this rule commence on ——— day of ———.

Ordered, That this motion lie for consideration, and that in the mean time the proposed resolutions be printed for the use of the Senate.

[February 19. The preliminary resolutions passed in the negative, and the main question was postponed to the next session of Congress—yeas 14, nays 13. The same day a motion to reconsider passed in the affirmative—yeas 17, nays 10, Messrs. Bradford, Foster, Langdon, and Livermore of the previous majority voting in the affirmative; and]

2 J. of S., 33.] FEBRUARY 19, 1794.

A motion was made to amend the motion last reconsidered, as follows:

Resolved, That after the end of the present session of Congress, and so soon as suitable, galleries shall be provided for the Senate Chamber; the said galleries shall be permitted to be open every morning so long as the Senate shall be engaged in their legislative capacity, unless in such cases as may in the opinion of the Senate require secrecy, after which the said galleries shall be closed.

[February 20 the amendment was agreed to and the resolution passed—yeas 18, nays 9.]

2 J. of S., 29.] FEBRUARY 10, 1794.

On motion,

That the Senate adopt the following resolution,

Resolved, That the doors of the Senate be opened and continue open during the discussion of the contested election of Albert Gallatin.

Ordered, That this motion lie on the table until to-morrow.

2 J. of S., 30.] FEBRUARY 11, 1794.

Agreeably to the order of the day, the Senate took into consideration the motion made yesterday that the doors of the Senate be opened during the discussion of the contested election of Mr. Gallatin. Whereupon,

Resolved, That the doors of the Senate be opened, and continue open, during the discussion of the contested election of Albert Gallatin.

2 J. of S., 34.] FEBRUARY 20, 1794.

Resolved, That on motion made and seconded to shut the doors of the Senate on the discussion of any business which may in the opinion of a member require secrecy, the President shall direct the gallery to be cleared; and that during the discussion of such motion the doors shall remain shut.

[The Senate then proceeded to the consideration of Mr. Gallatin's case.]

2 J. of S., 197.] DECEMBER 9, 1795.

The following motion was made by Mr. Martin and seconded by Mr. Butler: that it be

Resolved, That, in conformity to the resolution of the Senate, passed on the 20th day of February, 1794, the gallery of the Senate chamber be permitted to be open every morning, subject to the restrictions therein mentioned, a suitable gallery having been erected and provided in the Senate chamber in the late recess of Congress for that purpose.

And the motion being amended, it was

Resolved, That, in conformity to the resolution of the Senate of the United States, passed the 20th day of February, 1794, the gallery of the Senate chamber be permitted to be open every morning, subject to the restrictions in said resolution mentioned.

[The galleries were cleared on the same day.]

3 J. of S., 270.] FEBRUARY 23, 1803.

The Vice-President required the sense of the Senate as to the construction of the 28th rule, and for this purpose submitted the following proposition:

If, during debate, or at any other time, a motion shall be made and seconded to shut the doors, shall the galleries be forthwith cleared and the doors shut without debate or question?

And it was determined in the affirmative.

2d sess. 46th Cong., J. of S., 511.] MAY 4, 1880.

Mr. Conkling submitted the following resolution, which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Rules be instructed to inquire into the propriety of amending Rule 64 of the Senate so as to require a vote of the Senate to close its doors.

[No report of the committee is recorded.]

2. FOR THE CONSIDERATION OF TREATIES AND CONFIDENTIAL COMMUNICATIONS.

1 Ex. J. of S., 178.] JUNE 8, 1795.

[On the receipt of the Jay treaty and the documents submitted therewith.]

Ordered, That the Senate be under injunction of secrecy on the communications this day received from the President of the United States until further order of the Senate.

[Only thirty-one copies were ordered to be printed for the use of the Senate, and on the next day, when three new Senators had attended, two additional copies were ordered (ib., 178).]

[June 12, 1795, a motion was made to publish the treaty. That was modified to read:]

Ordered, That so much of the resolution of the 8th instant as enjoins secrecy upon Senators with respect to the communications on that day received from the President, be rescinded.

[And was lost June 13—yeas 9, nays 20 (1 Ex. J. of S., 181).]

1 Ex. J. of S., 190.] JUNE 25, 1795.

A motion was made by Mr. Burr, seconded by Mr. Livermore,

That the resoultion of the 8th instant, enjoining secrecy upon Senators with regard to the communications on that day made by the President, be rescinded; but that it be, nevertheless, enjoined upon Senators not to authorize or allow any publication in print of the said communications, or any article thereof.

[A motion to amend this to leave the matter of publication to the discretion of the President failing, the original motion passed in the affirmative and the Secretary was ordered to notify absent Senators.]

1 Ex. J. of S., 192.] JUNE 26, 1795.

Resolved, That the injunction of secrecy concerning the communications made by the President of the United States on the 8th of June, instant, be rescinded, but that it be, nevertheless, enjoined upon Senators not to authorize or allow any copy of the said communications or any article thereof.

[Yeas 18, nays 9.]

Ann. of Cong., 3d Cong., 867.]

[It appears that on the 25th of June an effort was made to strike out that part of the above resolution which enjoined upon Senators not to allow any publications in print of the communications of the President. This failed. On the following day, therefore, a motion was offered in exactly the same language omitting the clause which the Senate had refused to strike out on the 25th. The clause was inserted, however, by a vote of yeas 14, nays 12, and the amended motion passed in the same form as on the day before.]

1 Ex. J. of S., 361.] DECEMBER 22, 1800.

The following written message was received from the President of the United States, by Mr. Shaw, his secretary:

Gentlemen of the Senate:

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

It is my request to the Senate that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, *December 22d, 1800.*

On motion,

Resolved, That all confidential communications made by the President of the United States to the Senate shall be, by the members thereof, kept inviolably secret, and that all treaties which may hereafter be laid before the Senate, shall also be kept secret, until the Senate shall, by their resolution, take off the injunction of secrecy.

4 J. of S., 67.] MARCH 26, 1806.

Rule 24: The proceedings of the Senate, when they shall act in their executive capacity, shall be kept in separate and distinct books.

2d sess. 41st Cong., J. of S., 348.] MARCH 10, 1870.

Mr. Ferry submitted the following resolution for consideration:

Resolved, That the thirty-ninth rule shall not apply to any treaty for annexation to the United States of the entire dominion of any foreign powers; but any such treaty shall be considered and the question of its ratification decided in open session of the Senate.

Ib., 383.] MARCH 17, 1870.

On motion by Mr. Ferry, and by unanimous consent, the Senate proceeded to consider the resolution submitted by him on the 10th instant, to amend the thirty-ninth rule of the Senate, so as to provide that any treaty for the annexation to the United States of the entire dominion of any foreign power may be considered in open session.

After debate,

On motion by Mr. Ferry,

Ordered, That the resolution be referred to the Committee on Foreign Relations.

[For the debate see Con. Globe, 2d sess. 41st Cong., pt. 3, 2014.]

Ib., 399.] MARCH 22, 1870.

Mr. Sumner, from the Committee on Foreign Relations, to whom was referred the resolution submitted by Mr. Ferry on the 10th of March, to amend the thirty-ninth rule of the Senate so as to provide that any treaty of annexation to the United States of the entire dominion of any foreign power may be considered in open session, reported a recommendation that the said resolution be postponed indefinitely.

Ib., 465.] APRIL 7, 1870.

The Senate proceeded to consider the resolution and,

On motion by Mr. Edmunds,

Ordered, That the said resolution be passed over.

Ib., 492.] APRIL 14, 1870.

On the question to agree to the report of the committee that the resolution be postponed indefinitely,

It was determined in the affirmative.

2d sess. 41st Cong., J. of S., 89.] JANUARY 12, 1870.

Mr. Drake submitted the following resolution for consideration:

Resolved, That the thirty-ninth standing rule of the Senate be amended by adding thereto the following: *But this rule shall not apply to treaties with Indian tribes, which shall be considered and acted upon in open Senate.*

Ib., 94.] JANUARY 13, 1870.

The Senate proceeded to consider the resolution submitted yesterday by Mr. Drake to amend the thirty-ninth rule of the Senate in regard to action upon Indian treaties; and

An amendment being proposed by Mr. Ferry to the resolution by inserting after the word "tribes" the words *nor to treaties by whose ratification territory will be acquired to the United States from foreign governments, both of.*

After debate,

On motion by Mr. Drake,

Ordered, That the further consideration of the resolution be postponed to to-morrow.

[For the debate see Cong. Globe, 2d sess., 41st Cong., pt. 1, 413.]

Ib., 220.] FEBRUARY 8, 1870.

On motion by Mr. Drake,

The Senate resumed the consideration of the resolution to amend the thirty-ninth rule of the Senate in regard to its action upon Indian treaties, and the resolution having been amended, on the motion of Mr. Edmunds was agreed to, as follows:

Resolved, That the thirty-ninth standing rule of the Senate be amended by adding thereto following:

But this rule shall not apply to treaties with Indian tribes; which shall be considered and acted upon in the open Senate, unless the same shall be transmitted by the President to the Senate, in confidence.

[Cong. Globe, 2d sess. 41st Cong., pt. 2, 1098.]

1st sess. 48th Cong., J. of S., 195.] JANUARY 21, 1884.

Mr. Van Wyck submitted the following resolution:

Resolved, That any further consideration of the reciprocity treaty between Mexico and the United States be had in open session of the Senate;

Whereupon,

Mr. Anthony objected to the reception of the resolution during the legislative session of the Senate, it being in the nature of business which would be considered in executive session.

From the decision of the chair Mr. Van Wyck appealed to the Senate;

Whereupon,

A motion having been submitted by Mr. Edmunds that the doors be closed, and the same having been seconded,

The presiding officer directed that the galleries be cleared and the doors closed; and,

After proceedings with closed doors, during which the appeal from the decision of the chair was withdrawn by Mr. Van Wyck, the doors were reopened.

1st sess. 50th Cong., J. of S., 65.] DECEMBER 13, 1887.

Pursuant to notice yesterday given, Mr. Platt submitted the following resolution; which was referred to the Committee on Rules:

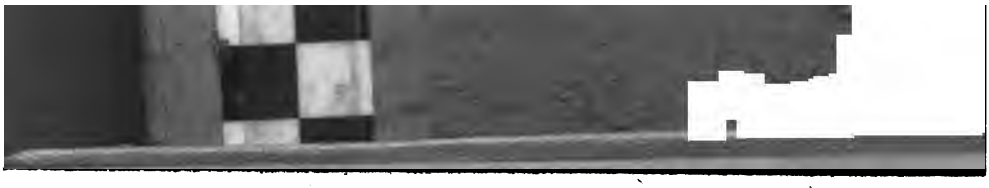
Resolved, That paragraphs 2, 3, and 4 of Rule XXXVI, paragraph 3 of Rule XXXVII, and paragraph 2 of Rule XXXVIII be so amended that hereafter the Senate shall consider and act upon treaties and executive nominations in open session, except in cases when it shall be otherwise ordered.

1st sess. 50th Cong., J. of S., 427.] MARCH 6, 1888.

On motion by Mr. Aldrich,

The Senate proceeded to consider amendments to the standing rules of the Senate reported by him from the Committee on Rules, February 27 and 28, 1888, viz:

* * * * * * *



Amend Rule XXXVI as follows:

Add, after the word "business," in line 1, clause 2, the words *unless the same shall be considered in open executive session.*

Add at the end of clause 3 the words *or unless the same shall be considered in open executive session.*

Amend Rule XXXVII, clause 1, by striking out "or" in the third line of the first paragraph, and inserting at the end of said paragraph the words *to remove the injunction of secrecy or to consider it in open executive session,* so that the paragraph would read:

"When a treaty shall be laid before the Senate for ratification, it shall be read a first time; and no motion in respect to it shall be in order except to refer it to a committee, to print it in confidence for the use of the Senate, to remove the injunction of secrecy, or to consider it in open executive session."

By adding to the second paragraph of clause 1 the words *at any stage of such proceedings, the Senate may remove the injunction of secrecy from the treaty, or proceed with its consideration in open executive session.*

And,

Resolved, That the Senate agree to the said amendments.

1st sess. 50th Cong., J. of S., 244.] JANUARY 31, 1888.

Mr. Riddleberger submitted the following resolution for consideration:

Resolved, That the treaty between this Government and that of Great Britain, now before the Senate in executive session, be considered in open session.

Mr. Riddleberger submitted the following resolution for consideration:

Resolved, That Rule XXXVII be so amended as to allow the treaty now pending between the Government of Great Britain and the Government of the United States to be considered in open session.

[February 1, Mr. Riddleberger attempted to get this considered, but it was ruled not in order and, on appeal, that ruling was sustained by the Senate.]

1st sess. 50th Cong., J. of S., 524.] MARCH 22, 1888.

Mr. Riddleberger submitted the following resolution for consideration, which was ordered to be printed:

Resolved, That so much of Rules XXXVI, XXXVII, and XXXVIII as provide for executive sessions be suspended during the consideration of the fisheries treaty, when the same shall be reported to the Senate.

[The resolution was taken up March 26 and consideration postponed (J. of S., p. 541). It was considered again April 3, and the doors were closed on motion by Mr. Edmunds (ib., 594). A similar resolution was submitted by Mr. Riddleberger April 16 (ib., 659). The next day it was considered with closed doors (ib., 676).]

1st sess. 50th Cong., J. of S., 852] MAY 21, 1888.

Mr. Riddleberger, by unanimous consent, entered a motion that the Senate reconsider its vote disagreeing to the resolution submitted by him March 22, 1888, to suspend Rules 36, 37, and 38 during the consideration of the fisheries treaty.

1st sess. 50th Cong., J. of S., 694.] APRIL 19, 1888.

Mr. Hoar submitted the following resolution, which was referred to the Committee on Foreign Relations:

Resolved, That when the proposed treaty with Great Britain shall be under consideration, the stenographic reporter shall be admitted and shall report the debates and proceedings, which may thereafter be made public if the majority of the Senate shall so order, except such portions thereof as it shall be determined that the public necessity requires shall be kept secret. So much of the third clause of Rule XXXVI as conflicts with the resolution is suspended so far as necessary in order that the same may take effect.

[The committee reported adversely May 9 (ib., 793), and the resolution was considered May 10, with closed doors (ib., 804).

2d sess. 37th Cong., J. of S., 130.] JANUARY 21, 1862.

Mr. Wade submitted the following resolution for consideration, which was ordered to be printed:

Resolved (the House of Representatives concurring), That the following be added to the joint rules of the two Houses:

22. When, during the present rebellion, any member of the Senate or House of Representatives shall rise in his place and state to the Senate or House of Represent-

atives that the Executive desires immediate action of Congress upon any matter pertaining to the suppression of the present rebellion, the Senate or House of Representatives, as the case may be, shall immediately go into secret session and proceed to the consideration of the measure proposed; and all debate thereon, if the previous question shall not have been ordered, shall be limited to five minutes for any member, and the final vote shall be taken before adjournment.

During such session no communication shall be received or made to or from any person not a member then present, except through the President of the Senate or Speaker of the House; and a breach of secrecy of any matter transacted during such session, unless the injunction of secrecy be removed, by any Senator or Representative shall be punished by expulsion; and if committed by any officer of either body, or other person, such punishment shall be inflicted as the body to which he belongs, may impose.

8 Ex. J. of S., 433.] AUGUST 4, 1852.

Mr. Jones, of Iowa, submitted the following motion for consideration:

Resolved, That whenever the Senate shall go into executive session, the President of the Senate shall admit one or more reporters of debates, who shall have previously qualified by taking oath before the presiding officer of the Senate to preserve inviolably secret the executive and confidential business of the Senate, which may come to his or their knowledge, until relieved therefrom by the order of the Senate removing such injunction of secrecy; and that all notes and reports when complete (which shall be done without delay) shall be immediately delivered to the Secretary of the Senate subject to order of the Senate.

[Laid on the table August 30, 1852 (ib., 449).]

3. FOR THE CONSIDERATION OF NOMINATIONS AND GENERAL EXECUTIVE BUSINESS.

1st sess. 27th Cong., J. of S., 127.] JULY 30, 1841.

Mr. Allen submitted the following motion for consideration:

Resolved, That the fortieth rule for conducting business in the Senate, and which requires the Senate to close its doors when in executive business, be rescinded, except as to the action of the Senate on treaties.

[August 3, 1841, the resolution was laid on the table—yeas 26, nays 20 (Globe, 1st sess. 27th Cong., 283); February 23, 1842, Mr. Allen renewed his motion (2d sess. 27th Cong., J. of S., 185), but consideration of it was postponed (ib., 196); December 21, 1842, he again renewed his motion and again it was postponed (3d sess. 27th Cong., J. of S., 40, 44); December 26, 1843 (1st sess. 28th Cong., J. of S., 44), Mr. Allen offered the resolution a fourth time, but it got no further than to be ordered to lie on the table and be printed.]

1st sess. 29th Cong., J. of S., 345.] JUNE 12, 1846.

Mr. Allen submitted the following resolution for consideration:

Resolved, That the fortieth rule for conducting business in the Senate, and which requires the Senate to close its doors when transacting executive business, be rescinded; and that the Senate shall hereafter sit with open doors when transacting all business.

[June 18, 1846, this motion was determined in the negative—yeas 13, nays 38 (ib. 359); Mr. Allen's remarks are reported, Globe, 1st sess. 29th Cong., 988.]

1st sess. 30th Cong., J. of S., 185.] FEBRUARY 23, 1848.

[Among other resolutions submitted for consideration by Mr. Allen was:]

Resolved, That the injunction of secrecy be, and the same hereby is, removed from all past proceedings of the Senate in executive session.

[February 29 this was laid on the table (ib., 196)].

2d sess. 32d Cong., J. of S., 358.] APRIL 5, 1853.

Mr. Chase submitted the following resolution for consideration:

Resolved, That the sessions and all proceedings of the Senate shall be public and open, except when matters communicated in confidence by the President shall be received and considered, and in such other cases as the Senate by resolution, from

time to time, shall specially order; and so much of the thirty-eighth, thirty-ninth, and fortieth rules as may be inconsistent with this rule is hereby rescinded.

[April 6 the motion was discussed and postponed to the next day, but was not taken up, and the Senate adjourned *sine die* April 11, 1853 (ib., 361–364). For the debate see Cong. Globe, 2d sess. 32d Cong., pt. 2, 319 of Appendix.

1st sess. 33d Cong., J. of S., 53.] DECEMBER 20, 1853.

Mr. Chase submitted the following resolution for consideration:

Resolved, That the following rule be adopted for the regulation of proceedings in the Senate, and that so much of the thirty-eighth, thirty-ninth, and fortieth rules as may be inconsistent with the rule hereby established, be rescinded:

"And sessions and all proceedings of the Senate shall be public and open, except when matters communicated in confidence by the President shall be received, and in such other cases as the Senate, by resolution from time to time, may specially order."

[January 24, 1854, this was laid on the table by vote of yeas 23, nays 14 (ib., 126.)]

1st sess. 47th Cong., J. of S., 798.] JUNE 7, 1882.

Mr. Van Wyck submitted the following resolution for consideration:

Resolved, That the consideration of the question, "Will the Senate advise and consent to the nomination of the persons selected by the President as members of the Tariff Commission?" be had in open session and not with closed doors.

[Consideration being objected to, the resolution went over. (Rec., 1st sess. 47th Cong., pt. 5, 4632).]

1st sess. 47th Cong., J. of S., 807.] JUNE 9, 1882.

Mr. Van Wyck submitted the following resolution for consideration:

Resolved, That in considering the question, "Will the Senate advise and consent to the nomination of the persons named by the President to be members of the Tariff Commission?" Rules LXVI and LXXIII be suspended, so that said question shall be considered in open session and not with closed doors.

1st sess. 47th Cong., J. of S., 813.] JUNE 12, 1882.

On motion by Mr. Van Wyck,

The Senate proceeded to consider the resolution submitted by him on the 9th instant, that the Senate will consider the nomination of the persons named by the President to be members of the Tariff Commission in open session.

On motion by Mr. Morrill,

The doors of the Senate were closed pending the consideration of the said resolution.

On the question to agree to the resolution,

It was determined in the negative, { Yeas ..... 16 / Nays 37

On motion by Mr. Coke,

The yeas and nays being desired, etc., [the names are omitted].

So the resolution was not agreed to.

1st sess. 49th Cong., J. of S., 460.] MARCH 22, 1886.

Mr. Logan submitted the following resolution which was ordered to lie on the table and be printed:

Resolved by the Senate of the United States, That the sessions of the Senate commonly known as executive sessions, so far as they apply to nominations, confirmations, or rejections, shall hereafter be held with open doors, and that a public record of the same shall be kept the same as in legislative sessions.

1st sess. 49th Cong., J. of S., 224.] JANUARY 29, 1886.

Mr. Platt submitted the following resolution which was referred to the Committee on Rules and ordered to be printed.

Resolved, That executive nominations shall hereafter be considered in open session, except when otherwise ordered by vote of the Senate.

[The Committee on Rules reported adversely February 8, 1886 (ib., 258), and the resolution with the adverse report was placed on the Calendar.]

1st sess. 49th Cong., J. of S., 514.] APRIL 5, 1886.

[Mr. Platt offered the following amendment to the above:]

After the word "considered" insert the words "and acted upon;" and at the end of the resolution add the following words: "And so much of section 2, Rule XXXVI, and section 2, Rule XXXVIII, of the standing rules of the Senate as conflict with or is inconsistent with the above, is to extent of such inconsistency rescinded."

April 12, 1886, Mr. Logan submitted an amendment to his resolution which was identical with the addition proposed by Mr. Platt. The subject was fully discussed by Mr. Platt (Cong. Rec., 1st sess. 49th Cong., 3420), Mr. Butler (ib., 3467), Mr. Logan (ib., 3506), Mr. Gibson (ib., 4839), for the resolution, and by Mr. Morrill (ib., 6308) and Mr. Hoar (ib., 6311) against it.

June 10, 1886, Mr. Riddleberger had the yeas and nays taken on a similar resolution with the result—yeas 8, nays 34, absent 34.

1st sess. 49th Cong., J. of S., 1067.] JULY 8, 1886.

Mr. Riddleberger submitted the following resolution for consideration, which was ordered to be printed:

Whereas it is generally understood that to-morrow, July 9, shall be devoted to the consideration of "objected executive nominations;" therefore,

Be it resolved, That the doors of the Senate shall not be closed during the time that the executive nominations are pending, discussed, or voted upon.

Ib., 1075.]

The point of order was raised, and sustained by the Chair, that the provision for amendment of the rules had not been complied with, and it was ordered that the resolution lie on the table.

1st sess. 51st Cong., J. of S., 168.] MARCH 14, 1890.

Mr. Call gave notice of his intention to move amendments to the Rules, as follows:

I give notice that I shall move on to-morrow to amend and modify clause 2 of Rule XXXVIII as follows: "All information communicated or remarks made by a Senator when acting on nominations concerning the character or qualifications of the person nominated, also all votes upon any nomination, shall be kept secret."

Also, so much of Rule XXVI, clause 2, as follows: "When acting upon confidential or executive business, unless the same shall be considered in open executive session, the Senate Chamber shall be cleared of all persons, except the Secretary, Chief Clerk, the principal Legislative Clerk, the Executive Clerk, and such officers as the Presiding Officer shall think necessary shall be sworn to secrecy."

The object of this motion for change of rule is to allow the consideration of the nomination of Charles Swain and Joseph N. Stripling in open executive session.

WILKINSON CALL.

[Cong. Rec., 1st sess., 51st Cong., 2234, 2235.]

1st sess. 51st Cong., J. of S., 172.] MARCH 18, 1890.

Pursuant to the notice given on the 14th instant that he would move to amend the thirty-sixth and thirty-eighth rules of the Senate, in order to allow the consideration of the nominations of Charles Swain and Joseph N. Stripling in open executive session,

Mr. Call asked the reading of a resolution which he had sent to the Secretary's desk.

The President *pro tempore* declined to entertain the resolution, and decided that a motion to consider matters relating to executive business in open executive session must be made when the Senate is in executive session.

Whereupon,

Mr. Sherman submitted a motion that the doors be closed, and, the same having been seconded by Mr. Edmunds,

The President *pro tempore* directed the galleries to be cleared and the doors closed; and

After proceedings with closed doors and the consideration of executive business,

The doors were reopened.

[Cong. Rec., 1st sess. 51st Cong., 2291; no debate.]

1st sess. 51st Cong., J. of S., 164.] MARCH 12, 1890.

Mr. Plumb submitted the following resolution, which was referred to the Committee on Rules:

Resolution proposing amendment to Rule XXXIX.

Add at the close: "*Provided*, That all votes cast in executive session, whether upon yea-and-nay vote or otherwise, shall be made public at the close of the session at which the same are cast."

4. THE DUTY OF SECRECY.

1 J. of S., 235.] JANUARY 21, 1791.

The Senate resumed the consideration of the motion made yesterday, to wit: "That the Secretary furnish any member of the Senate with such extracts from the Executive Journal as he may direct;" and it was agreed to amend the motion to read as follows:

Resolved, That the Secretary do furnish the members of the Senate, when required, with extracts of such parts of the Executive Journal as are not, by the vote of the Senate, considered secret; and it was agreed that the motion be committed to Messrs. Ellsworth, Gunn, and King.

Ordered, That the secretary do furnish Mr. Gunn with an attested copy of sundry extracts from the records of the Senate, when acting in their executive capacity.

2 J. of S., 316.] JANUARY 31, 1791.

A motion was made that a journal, to be denominated the secret journal, shall be provided and kept by the Secretary of the Senate, in which shall be entered such parts of the proceedings of the Senate, in their legislative capacity, as they shall deem proper to be kept secret, and

It passed in the negative.

1. Ex. J. of S., 99.] JANUARY 27, 1792.

Ordered, That the President of the United States be furnished with an authenticated transcript of the executive records of the Senate from time to time.

Ordered, That no executive business in future be published by the Secretary of the Senate.

[Ib. 397. The Secretary was authorized to furnish certain extracts from the Executive Journal.]

2. Ex. J. of S., 374.] JUNE 24, 1813.

[Mr. Campbell proposed a new rule, that]

The proceedings of the Senate when acting on executive business shall, while the same is pending, be considered confidential; and after any such business shall have been fully acted on, no part of the proceedings had thereon, except the names of the persons nominated to office and the votes of the members on such nominations, shall be made public without the order of the Senate.

2 Ex. J. of S., 392.] JULY 23, 1813.

Mr. King submitted the following motion for consideration:

1. Resolved, That the Journal of the Executive Proceedings of the Senate be from time to time published, excepting such parts thereof as may have been ordered to be kept secret.

2. Resolved, That every observation or debate concerning the qualifications or character of any person nominated by the President to any office be kept secret.

[This motion was referred to a committee July 24 (p. 395), which reported the first resolution, and that was postponed "to the first Monday of December next."]

1st sess. 19th Cong., J. of S., 411.] MAY 10, 1825.

Resolved, That such parts of the Executive Journal and proceedings of the Senate as shall be, at each session, discharged from the injunction of secrecy, be annually printed in addition to the Legislative Journal.

[The following extracts from the rules of the Senate show the principal changes in the rules on this subject.]

1st sess. 16th Cong., J. of S., 66.] JANUARY 3, 1820.

[Rule] 36. All confidential communications made by the President of the United States to the Senate shall be by the members thereof kept secret, and all treaties which may be laid before the Senate shall also be kept secret until the Senate shall, by their resolution, take off the injunction of secrecy.

37. All information or remarks touching or concerning the character or qualifications of any person nominated by the President to office shall be kept secret.

38. When acting on confidential or executive business, the Senate shall be cleared of all persons except the Secretary, the Sergeant-at-Arms, the Doorkeeper, or, in his absence, the Assistant Doorkeeper.

39. Extracts from the executive record are not to be furnished but by special order.

2d sess. 40th Cong., J. of S., 345.] MARCH 25, 1868.

[Rule] 39. All confidential communications made by the President of the United States to the Senate shall be by the Senators and officers of the Senate kept secret, and all treaties which may be laid before the Senate, and all remarks and proceedings thereon, shall also be kept secret until the Senate shall, by their resolution, take off the injunction of secrecy.

40. All information and remarks concerning the character or qualifications of any person nominated by the President to office shall be kept secret; but the fact that a nomination has been made shall not be regarded as a secret.

41. When acting on confidential or executive business, the chamber shall be cleared of all persons, excepting the Secretary of the Senate, the principal or executive clerk, the Sergeant-at-Arms, and Doorkeeper, the Assistant Doorkeeper, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy.

42. The legislative proceedings, executive proceedings, and confidential legislative proceedings of the Senate shall be kept in separate books.

2d sess. 44th Cong., J. of S., 127.] JANUARY 17, 1877.

Rule 73. All information communicated or remarks made by a Senator, when acting upon nominations; concerning the character or qualifications of a person nominated, also all votes upon any nomination, shall be kept secret. If, however, charges shall be made against a person nominated, the committee may in its discretion notify such nominee thereof, but the name of the person making such charges shall not be disclosed. The fact that a nomination has been made, or that it has been confirmed or rejected shall not be regarded as a secret.

1st sess. 48th Cong., J. of S., 157.] JANUARY 11, 1884.

RULE XXXVI.—*Executive sessions.*

2. When acting upon confidential or executive business, the Senate chamber shall be cleared of all persons, except the Secretary, and Chief Clerk, the principal legislative clerk, the minute and Journal Clerk, the Sergeant-at-Arms, the Assistant Doorkeeper, and such other officers as the Presiding Officer shall think necessary. And all such officers shall be sworn to secrecy.

6 Ex. J. of S., 273.] MAY 10, 1844.

Resolved, That the following be added to the standing rules of the Senate.

Any officer or member of the Senate convicted of disclosing for publication any written or printed matter directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in case of a member to suffer expulson from the body.

[Passed in the affirmative—yeas 21, nays 17.]

2d sess. 48th Cong., J. of S., 571.] MARCH 21, 1885.

Ordered, That the injunction of secrecy be removed from the following report from the Committee on Rules, viz:

The Committee on Rules, to which was referred a question of order raised by the Senator from Maine (Mr. Frye), as to the operation of clause 3, Rule XXXVI, reported that it stands the injunction of secrecy to each step in the consideration of treaties, including the fact of ratification, that no modification of this clause of the rules ought to be made, that the secrecy as to the fact of ratification of a treaty may be of the utmost importance, and ought not to be removed except by order of the Senate, or until it has been made public by proclamation of the President.

6 Cong. Debates, pt. 1, 11.] JANUARY 12, 1830.

Mr. Barton declared that no rule or order of the Senate made secret discussions on the removal or appointment of officers, and at the next executive session he should move to transfer the discussion of the question from the executive to the legislative journal.

The subject was ruled out of order.

4. Ex. J. of S., 122.] MARCH 12, 1830.

Resolved, That a committee be appointed to take into consideration the rules in relation to the confidential proceedings of the Senate in its executive capacity, and to report thereon.

Ordered, That Messrs. Hayne, Webster, Grundy, Bell, and Benton, be the committee

4 Ex. J. of S., 122.] MARCH 24, 1830.

Mr. Hayne submitted the following report:

The select committee to whom the above resolution was referred, have had the same under consideration, and respectfully report:

That the rules of the Senate, so far as they are embraced in the resolution, are the thirty-eighth, thirty-ninth, and fortieth, in the following words:

"38. All *confidential communications* made by the President of the United States to the Senate, *shall be*, by the members thereof, *kept secret;* and all *treaties* which may be laid before the Senate, shall also *be kept secret*, until the Senate shall, by their resolution, take off the injunction of secrecy.

"39. All *information* or *remarks*, touching or concerning the *character or qualifications of any person nominated* by the President to office *shall be kept secret.*

"40. When acting on confidential or executive business, the Senate shall be cleared of all persons except the Secretary, the Sergeant-at-arms, and Doorkeeper, or, in his absence, the Assistant Doorkeeper."

From these rules it manifestly appears that the injunction of secrecy imposed on the Senate, while acting in its executive capacity embraces:

First. "All *confidential* communications made by the President of the United States to the Senate."

Second. "All *treaties* which may be laid before the Senate."

Third. "All *information* or *remarks* touching or concerning the character or qualifications of any person nominated by the President to office."

Under these heads it may be necessary to submit a few observations.

1. "Confidential communications made by the President."

It has been supposed that all communications from the President to the Senate, in its executive capacity, are *confidential*; and, indeed, some gentlemen have gone so far as to contend that all the executive proceedings of the Senate are of this character. This opinion seems to rest entirely upon the practice of acting on executive business with closed doors. But this practice seems to be indispensable to enable the Senate to act without a violation of secrecy in regard to "treaties" and other "confidential communications," the character of which can only be known after they are read and examined.

To prove conclusively that all executive business is not confidential, it is only necessary to refer to the rules above quoted, where the business to be considered confidential is especially designated.

The fortieth rule, moreover, carefully distinguishes between business "confidential" and merely "executive" when it uses the expression "when acting on confidential OR executive business." If all executive business was of course confidential, one of these words would have been omitted.

By the words "confidential communications made by the President" the committee, then, understand communications designated by the Executive as "confidential;" and if it has not been the usual practice for the Executive to observe this distinction, no difficulty can arise hereafter, when the views of the Senate on this subject shall be made known.

To show that our executive magistrates heretofore have not considered all communications made to the Senate in its executive capacity as confidential, it is only necessary to observe that nothing has been more common than to find nominations announced in the public prints on the very day they have been made to the Senate. By considering as confidential only those communications made by the President which shall be *marked by him* "confidential," the Executive and the Senate will be under equal obligations to keep all such obligations secret.

2. Treaties.

The rule provides that "treaties shall be kept secret until the Senate shall, by their resolution, take off the injunction of secrecy." The obvious propriety of this rule renders comment unnecessary; and though cases may be conceived in which it might be wholly immaterial whether treaties shall be openly discussed or not, yet in laying down a *general rule*, it is manifest that all proceedings in relation to them ought to be considered as confidential.

A true construction of this rule, and the only safe practice under it, would seem to be, to consider everything connected with a treaty as confidential. *The fact of its being submitted* to the Senate, *its terms*, and *provisions*, and *all proceedings of the Senate* in relation to it, must be kept secret until the injunction of secrecy shall be removed.

3. Information or remarks touching the character or qualifications of persons nominated to office.

This rule is too explicit to admit of a doubt as to the obligation to keep secret everything that *may be said by a Senator* "touching the character or qualifications of a person nominated to office." The object of this rule is to encourage that free and confidential interchange of opinion among the members of the Senate, necessary to a just and enlightened decision on the character and qualifications of the candidates for office. So far as this rule embraces "information" given or "remarks" made, there can be no difficulty. But it may be asked whether any injunction of secrecy is imposed by this rule—

First, in relation *to the fact that an individual has been nominated* to any office, before the nomination has been acted upon.

Second, in relation to the *confirmation* or *rejection of such nomination.*

Third, in relation to the *state of the vote* by which such confirmation or rejection has taken place.

Fourth, in relation to the *votes of individual members* of the Senate on such nomination.

That the words of the rule do not impose secrecy in any of the three first-named cases can hardly admit of a doubt; and it seems equally clear that they are not embraced within the reason of the rule, the only point that can be considered at all doubtful is, whether a disclosure *of the vote of any individual member* of the Senate does not come within the meaning of the rule which forbids the disclosure of "remarks" of any member touching the character and qualifications of any person nominated by the President. A vote, though not strictly speaking a *remark*, is clearly an expression of an opinion, and if the former ought to be kept secret, so ought the latter. On the whole, therefore, the committee are of opinion that in addition to keeping secret all "remarks on the character and qualifications of persons nominated," the *votes* of individual members must also be kept secret; so they think that this rule ought not to prevent a gentleman from making known his own individual vote on such nominations, taking care to keep secret the votes of others.

It appears to the committee that the rule, as it now stands, is not sufficiently comprehensive to embrace remarks touching the character of persons other than those "who may be nominated to office." To embrace that object the committee recommend that the thirty-ninth rule be so amended as to read as follows:

Rule 39. All information or remarks touching or concerning the character, conduct, or qualifications of individuals shall be kept secret.

The effect of *removals of injunction of secrecy* alone remains to be considered. The effect of an *unqualified removal* of the injunction of secrecy would seem to be to permit the publication of everything now required by the rules to be kept secret. To guard against disclosures of the remarks made by Senators touching the character and qualifications of persons nominated, it has been usual to provide for the removal of the injunction merely from *the proceedings* of the Senate. Where this has been done in relation to appointments "the remarks" of Senators have still been considered as secret, but the injunction has been regarded as removed from all the *votes* given in the case. Where the injunction has been removed from "*the proceedings*" in *other cases* the members of the Senate have been considered as at liberty even to publish their remarks, as was done in the case of the Panama mission. On the whole, the committee are of the opinion that removals of the injunction of secrecy should hereafter be considered as absolute or qualified, according to the terms of the resolution.

To prevent misunderstanding on this subject the committee recommend—

First. That all motions for the removal of the injunction of secrecy shall hereafter be submitted in writing.

Second. That under a resolution to remove the injunction of secrecy from the *journal of the proceedings* nothing shall be made public except what shall appear upon the Journal.

Third. That a resolution to remove the injunction from *all the proceedings*, shall be construed to permit the publication of everything except "*remarks* touching the character and qualifications of individuals." Under such a resolution, the speeches of Senators, which may, under the existing rules, be required to be kept secret, and not relating to the character of individuals, may be published.

Fourth. That a resolution to remove the injunction of secrecy, so as to permit the publication of remarks of individuals "touching the character, conduct or qualifications of individuals" must declare that object in positive and express terms.

IN THE SENATE OF THE UNITED STATES.

MARCH 17, 1854.—Ordered to be printed.

Mr. Butler made the following report:

The Committee on Judiciary, to whom was referred the resolution of the Senate, "to inquire whether any additional rule or amendment of the existing rule in relation to the proceedings of the Senate in executive session be necessary, and if in their opinion any such rule or amendment be necessary, to report such rule or amendment to the Senate," have had the same under consideration and report.

The subject of the foregoing resolution seems to have been fully considered by the committee of the Senate in 1830, of which Mr. Hayne was chairman. The report is as follows: [The report is omitted here. v. *supra*, 15.]

Your committee adopt both the reasoning and conclusions of that report, and under the views thus presented there is no occasion to alter or amend any of the existing rules of the Senate. As it regards the words of the former thirty-ninth, now fortieth, rule, which reads as follows:

"All information or remarks touching or concerning the character or qualifications of any person nominated by the President to office shall be kept secret." Your committee give them the same construction that seems to have been done by the former committee, to wit: "That no Senator is authorized to disclose the vote of another, as such vote may still be regarded as an important remark of the member, and therefore comes within the purview of the rule."

BENJAMIN TAPPAN.

1st sess. 28th Cong., J. of S., 441.] MAY 10, 1844.

Mr. Archer submitted the following resolution:

Resolved, That Benjamin Tappan, a Senator from the State of Ohio, having been found by the Senate to have been guilty of a flagrant violation of its rules and contempt of its authority constituting a high breach of trust, be, for such offense, and hereby is, expelled.

[Mr. Bayard moved to amend the resolution to read.]

That Benjamin Tappan, a Senator from the State of Ohio, having willfully and deliberately violated the thirty-eighth rule of the Senate in making known and causing to be published in a newspaper printed in the city of New York, before the injunction of secrecy had been removed, a copy of the treaty of annexation concluded between the United States of America and the Republic of Texas, at Washton, on the 12th day of April, 1844, with the accompanying correspondence communicated to the Senate by the President of the United States, has incurred the just censure of the Senate, and shall receive its reprimand through the presiding officer, who is hereby directed to give the same in the presence of the Senate.

[This was amended on motion by Mr. Simmons by vote—yeas 33, nays 12, to read:]

That Benjamin Tappan, a Senator from the State of Ohio, in furnishing for publication in a newspaper, documents directed by order of the Senate to be printed in confidence for its use, has been guilty of a flagrant violation of the rules of the Senate and disregard of its authority.

[And as amended was agreed to—yeas 35, nays 7.]

Resolved, That in consideration of the acknowledgments and apology tendered by the said Benjamin Tappan for his said offense no further censure be inflicted on him.

Determined in the affirmative—yeas 39, nays 3.

[The proceedings were in executive session and the debate therefore is not published. See also 6 Ex. J. of S., 270–273.]

5. THE GALLERIES.

1st sess. 24th Cong., 12 Ann. of Cong., pt. 1, col. 3.] DECEMBER 8, 1835.

[The following report was adopted:]

The circular gallery shall be appropriated for the accommodation of ladies, and gentlemen accompanying them.

The reporters * shall be removed from the east gallery and placed on the floor of the Senate, under the direction of the Secretary.

[The remainder of the report relates to admission to the floor (v. infra, p. 22).]

*For the practice regarding reporters of debates and newspaper reporters in the Senate v. *infra*, p. 80.

1st sess. 24th Cong., J. of S., 73.] DECEMBER 31, 1835.

The following motion, submitted by Mr. Preston, was considered:

Resolved, That the resolution in relation to the Senate Chamber and galleries, adopted at the present session, be rescinded, except so much as relates to the reporters.

On motion by Mr. Tipton,

Ordered, That it be laid on the table.

[Mr. Preston being absent (Ann. of Cong., Vol. 12, pt. 1, 58).]

Ib., 82.] JANUARY 6, 1836.

[The Senate resumed consideration of the above, and]

On motion by Mr Clayton,

To amend the same by striking out all after the word "resolved," and inserting—

That the circular gallery of the Senate be open for the admission of spectators; and that each Senator be allowed to admit any number not exceeding three into the lobby of the Senate, in front of the chair.

Mr. Tallmadge moved to amend the proposed amendment by striking out all after the word "that" where it first occurs, and inserting the words *each Senator have the privilege of admitting —— gentlemen into the circular gallery;* and

It was determined in the negative—yeas 6, nays 34.

The question recurring on agreeing to the amendment proposed by Mr. Clayton, a division of it was demanded by Mr. Niles, and the question was accordingly taken on the first number of the said amendment, to wit: Strike out all after the word "resolved" in the resolution submitted by Mr. Preston, and insert, *That the circular gallery of the Senate be open for the admission of spectators;* and

It was determined in the affirmative—yeas 35, nays 7.

On the question to agree to the second number of the amendment proposed by Mr. Clayton, to wit, insert the words *and that each Senator be allowed to admit any number not exceeding three into the lobby of the Senate, in front of the Chair,*

It was determined in the negative—yeas 18, nays 24.

On the question to agree to the original motion as amended,

It was determined in the affirmative—yeas 31, nays 11. So it was

Resolved, That the circular gallery of the Senate be open for the admission of spectators.

[The debate is reported in 12 Ann. of Cong., pt. 1, cols. 65–71.]

1st sess. 29th Cong., J. of S., 181.] MARCH 5, 1846.

Mr. Breese submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate, be instructed to inquire into the expediency, practicability, and probable expense of augmenting the accommodation for the public in the Chamber of the Senate by erecting an additional gallery, changing the arrangement respecting reporters, or otherwise; and that they make report thereon.

[The committee reported March 25 (ib., 213) the following resolution:]

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate, take prompt order for the construction of an additional gallery over the marble gallery, the arrangement of the reporters' seats as proposed by them, the improvement of the lantern light, and the furnishing and preparing the marble gallery in appropriate style for the use of the ladies: *Provided*, That the expense attending the same shall not exceed $4,000.

Ib., 244.] APRIL 14, 1846.

[The motion was amended by inserting, after the words "proposed by them," *allowing at the same time equal accommodation to that now allowed to the public press;* and a motion to add "to be paid out of the contingent fund of the Senate," was lost.]

On the question to agree to the resolution as amended,

It was determined in the negative,

So the resolution was not agreed to.

[The debate appears in Globe, 1st sess. 29th Cong., 667.]

2d sess. 36th Cong., J. of S., 66.] DECEMBER 31, 1860.

Mr. Crittenden submitted the following motion for consideration:

Resolved, That the President of the Senate be requested to assign a portion of the gallery of the Senate for the use of the foreign ministers, their families, and suites; but nothing herein contained shall affect the provisions of the forty-eighth rule of the Senate.

The Senate proceeded, by unanimous consent, to consider the said resolution.

On motion by Mr. Trumbull, that the further consideration of the resolution be postponed to to-morrow,

It was determined in the negative.

After debate,

On the question to agree to the resolution,

It was determined in the affirmative.

So the resolution was agreed to.

[For the debate see Cong. Globe, 2d sess. 36th Cong. pt. 1, 210.]

March 8, 1861, during the special session, Mr. Grimes moved to rescind the order setting a part of the gallery for the use of the diplomatic corps (2d sess. 36th Cong., J. of S., 411). On the 12th the motion was laid on the table (ib., 415).

3d sess. 42d Cong., J. of S., 611.] MARCH 12, 1873.

Mr. Anthony submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That it shall be the duty of the Select Committee on the Revision of the Rules to make and enforce all rules and regulations respecting the reporters' gallery of the Senate, and the occupation thereof; and said committee is directed to take such action from time to time as will confine the occupation of said gallery to *bona fide* reporters for daily newspapers, assigning not exceeding one seat to each newspaper; and said committee shall have power to provide a seat or seats on the floor for Associated Press reporters, and to regulate the occupation of the same.

3d sess. 42d Cong., J. of S., 612.] MARCH 13, 1873.

Mr. Anthony sumbitted the following resolution, which was referred to the Select Committee on the Revision of the Rules:

Resolved, That the Select Committee on the Revision of the Rules be directed to issue no more tickets of admission to the reporters' gallery than there are accommodations for them, and that no transient tickets or passes be issued thereto; and that the Sergeant-at-Arms be directed to exclude from the reporters' gallery all persons not having tickets of admission thereto.

[Mr. Anthony's reasons for offering the resolution may be found in the Cong. Rec., special sess. 43d Cong., 63.]

3 J. of S., 124.] FEBRUARY 10, 1801.

On motion that when the two Houses shall proceed to opening and counting the votes for President of the United States, no person shall be admitted into the gallery:

It passed in the affirmative, { Yeas ..... 16 / Nays 10

3 J. of S., 452.] FEBRUARY 13, 1805.

Resolved, That when the two Houses of Congress proceed to open and count ballots for President and Vice-President the gallery of the Senate chamber be open.

1st sess., 44th Cong., J. of S., 435.] APRIL 18, 1876.

Mr. Edmunds submitted the following, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Rules be directed to inquire and report as soon as may be, what further provision, if any, is necessary in order to secure the reserved portions of the galleries to those for whom they are designed.

Ib., 452.] APRIL 24, 1876.

Mr. Hamlin, from the Committee on Rules, to whom the subject was referred, reported the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the gallery set apart for the use of the families of Senators and Representatives, during the impeachment trial, shall be occupied only and exclusively by the families of Senators and Representatives.

PRIVILEGE OF THE FLOOR.

The question of the admission to the floor of the Senate of persons, other than its officers, has been a subject of frequent consideration. The right of the President of the United States to be present at any session seems never to have been questioned, though the right appears to have been exercised but twice, August 22 and 24, 1789. In 1792, while all the sessions of the Senate were still secret, a proposition was made to admit the members of the House of Representatives, and to allow each Senator to introduce two persons, but was defeated by the decisive vote of 6 to 16. The legislative debates were made public in 1794, but no admissions to the floor were authorized for many years. In December, 1803, the subject was fully considered. It was proposed to grant the privilege to members of the House, foreign ministers, heads of Departments, and persons introduced by members of the Senate. The Senate struck out the grant to persons introduced by Senators, refused to extend the privilege to ladies, or to the governors, and councillors, and members of the legislatures of the States, and finally rejected the resolution by vote of 7 to 21. A similar resolution introduced March 13, 1820, was postponed to a day beyond the end of the session. It is clear, however, that in this time many persons were admitted to the floor but not within the bar.

It is noticeable that all the resolutions on this subject are resolutions of exclusion rather than admission.

December 7, 1833, a resolution was adopted recognizing the existence of the privilege in the members of the House and their clerk, heads of Departments, several Treasury officers, the Postmaster-General, President's secretary, federal judges, foreign ministers and their secretaries, persons who had received the thanks of Congress by name, commissioners of the Navy Board, governors of States or Territories, persons who had been heads of Departments, or members of either branch of the legislature, and, at the discretion of the President of the Senate, members of the legislatures of foreign governments in amity with the United States. An effort was made to reconsider this but without avail, and within a short time several officials of the Army and Navy, together with the clerk and reporter of the Supreme Court, were admitted. The rule was amended from time to time, extending the privilege to other officers of the Government or of the States, and in 1838 certain reporters of newspapers were admitted.

In 1850 a proposal was reported by a committee to issue to each Senator a ticket which, when indorsed by the Senator, would entitle the bearer to admission to the floor. It was laid upon the table.

This wide extension of the privilege evidently led to some abuse, for we find that in 1853 it was deemed necessary to require all persons claiming the privilege (except members, and the Clerk of the House, heads of Departments, the private secretary of the President, chaplains of Congress, federal judges, foreign ministers and their secretaries, and those who had received the thanks of Congress) to register each time they entered.

When about to move to the new chamber in 1858, the privilege was cut down to officers of the Senate and members of the House. This restriction was of short duration. The privilege was soon extended to various Federal officials, and in 1872 to the private secretaries of Senators.

In the Forty-sixth Congress a serious effort was made to provide seats for the heads of Departments and to allow them to participate in debate, but without success.

Besides the persons named above, contestants for seats have uniformly been admitted until the settlement of their titles. No other persons are allowed within the doors of the chamber to present papers or argument. We leave out of account here parties in contempt, or persons appearing as counsel in cases of contempt or impeachment.

Distinguished visitors like Lafayette and Louis Kossuth have been admitted on special occasions, and in 1879 the privilege was extended to Hon. George Bancroft as a mark of especial honor.

Since 1803 several attempts have been made to extend the privilege of the floor to ladies. The privilege has never been granted generally, but in several instances, when particular measures were under discussion, the rule has been suspended for the day and ladies admitted. This was the case in 1850 during the debate on the compromise measures, and again in 1858 when the admission of Kansas was under consideration.

PRESIDENT OF THE UNITED STATES.

1 Ex. J. of S., 19.] AUGUST 21, 1789.

When the President of the United States shall meet the Senate in the Senate chamber, the President of the Senate shall have a chair on the floor, be considered as the head of the Senate, and his chair shall be assigned to the President of the United States.

1 Ex. J. of S., 20.] AUGUST 21, 1789.

A message from the President of the United States by Mr. Lear, his Secretary, who delivered the following communication to the Vice-President, and withdrew:

GENTLEMEN OF THE SENATE:

The President of the United States will meet the Senate in the Senate Chamber at half past eleven o'clock to-morrow to advise with them on the terms of the treaty to be negotiated with the Southern Indians.

GEO. WASHINGTON.

NEW YORK., *August 21st, 1789.*

AUGUST 22, 1789.

The President of the United States came into the Senate Chamber, attended by General Knox, and laid before the Senate the following state of facts, with the questions thereto annexed, for their advice and consent:

[The several questions laid before the Senate were partially considered. The further consideration of the questions submitted being postponed till Monday, the 22d being Saturday, the Journal states (ib., 23):]

The President of the United States being present in the Senate Chamber, attended by General Knox.

The Senate resumed the consideration of the state of facts, &c.

* * * * * * *

The President of the United States withdrew from the Senate Chamber and the Vice-President put the question of adjournment, to which the Senate agreed.

[An account of these visits of the President to the Senate may be found in the Journal of William Maclay, 127–133.]

2d sess. 44th Cong., J. of S., 126.] JANUARY 17, 1877.

Rule LXV. When the President of the United States shall meet the Senate in the Senate Chamber for the consideration of executive business, he shall have a seat at the right of the Chair.

MEMBERS OF THE HOUSE OF REPRESENTATIVES AND OTHERS.

1 J. of S., 420.] APRIL 18, 1792.

On motion by Mr. Few, seconded by Mr. Gunn,

That when the Senate be sitting in their legislative capacity the members of the House of Representatives may be admitted to attend the debates, and each member of the Senate may also admit a number, not exceeding two persons: provided the operation of this resolution be suspended until the Senate Chamber is sufficiently enlarged.

It passed in the negative—yeas 6, nays 16.

3 J. of S., 327.] DECEMBER 16, 1803.

A motion was made, "That no person shall be admitted on the floor of the Senate Chamber except members of the House of Representatives, foreign ministers, and heads of Departments, unless introduced by a member of the Senate.

Ordered, That this motion lie for consideration.

DECEMBER 19, 1803.

The Senate took into consideration the motion made on the 16th instant, that no person be admitted on the floor of the Senate Chamber except members of the House of Representatives, foreign ministers, and heads of Departments, unless introduced by a member of the Senate.

On motion,

It was agreed to strike out the words "unless introduced by a member of the Senate."

On motion,
It was agreed to subjoin, after the word "Departments," "and judges of the Supreme and District courts of the United States."
On motion,
To insert after the word "States," "and the ladies,"

It passed in the negative, { Yeas ..... 12 / Nays 16

To insert after the word "States" "the governors and councillors of the respective States and the representatives of the State legislatures,

It passed in the negative, { Yeas ..... 13 / Nays 15

To agree to the resolution as amended as follows:
Resolved, That no person shall be admitted on the floor of the Senate Chamber except members of the House of Representatives, foreign ministers, and heads of Departments, judges of the Supreme and district courts of the United States.

It passed in the negative, { Yeas ..... 7 / Nays 21

1st sess. 16th Cong., J. of S., 229.] MARCH 13, 1820.

Mr. King, of New York, submitted the following motion for consideration as an additional rule:
No person except members of the House of Representatives, their clerk, heads of Executive Departments, chaplains of Congress, judges of the Supreme Court, the Attorney-General of the United States, commissioners of the Navy board, Postmaster-General, persons who have been members of the Senate, House of Representatives, or heads of Executive Departments, persons who by name have received the thanks of Congress for their good conduct in the land or naval service of the United States, the secretary of the President of the United States, governors of any of the States, and foreign ministers resident at the seat of Government, shall be admitted on the floor of the Senate.
[March 21, further consideration of the above was postponed to the first Monday in June (ib., 251). Congress adjourned May 15.]

1st sess. 24th Cong., J. of S., 5.] DECEMBER 7, 1835.

On motion by Mr. Porter, and by unanimous consent,
Resolved, That the circular gallery be appropriated for the accommodation of ladies and gentlemen accompanying them.
The reporters shall be removed from the east gallery to places on the floor of the Senate, under the direction of the Secretary.
No person except members of the House of Representatives, their clerk, heads of departments, treasurer, comptrollers, registers, auditors, Postmaster-General, President's secretary, chaplains of Congress, judges of the United States, foreign ministers, and their secretaries, officers who by name have received or shall hereafter receive the thanks of Congress for their gallantry and good conduct displayed in the service of their country, the commissioners of the Navy Board, governors for the time being of any State or Territory of the Union, such gentlemen as have been heads of Departments, or members of either branch of the legislature, and at the discretion of the President of the Senate, persons who belong to such legislatures of foreign governments as are in amity with the United States, shall be admitted on the floor of Senate.
[Mr. Preston offered a resolution to rescind the above, except so far as related to reporters. The resolution was taken up December 31 (J. of S., 73; G. and S. Reg., 58), but laid aside in the absence of Mr. Preston. January 6, 1836, the subject was taken up and debated (G. and S. Reg., 65–72).]

Some remarks of Mr. Mangum, in the course of this debate, are significant as showing the practice prior to the adoption of the rule of December 7, 1835. He is reported (Reg., 67):
"Under the old rule spectators were not permitted to come within the bar of the Senate, nor to go behind the pillars, therefore no very great inconvenience was occasioned by their admission. * * * He would agree to the resolution if the restrictions were confined to the floor of the Senate, but he would never agree that the galleries should be closed. There would be one inconvenience, however, in the restrictions as to the floor of the Senate. "We have," said he, "strangers here from all parts of the Union, and we have in our intercourse with them to go out of the chamber, thus incurring the risk of being absent when a vote is taken; while under the old rule we could still have the necessary intercourse with our friends and constituents without losing any part of the business going on."

1st sess. 24th Cong., J. of S., 110.] JANUARY 20, 1836.

The following motion submitted by Mr. King, of Alabama, was considered and agreed to:

Resolved, That the resolution adopted on the 7th ultimo admitting certain public officers and others to the floor of the Senate as spectators be amended by inserting "the solicitor of the Treasury, the Paymaster-General, the Quartermaster-General, the Commissary-General, the principal of the topographical bureau, the principal geologist, the principal of the engineering bureau, the clerk of the Supreme Court, and reporter of the Supreme Court."

[G. and S. Reg., vol. 12, 211.]

1st sess. 24th Cong., J. of S., 163.] FEBRUARY 15, 1836.

Resolved, That the resolution adopted on the 7th of December last, admitting certain public officers of the United States and others to the floor of the Senate as spectators, be further amended by inserting "the Inspectors-General, the Adjutant-General, the Chief of the Ordnance Department, the Surgeon-General, the Commissioner of Indian affairs, the Commissioners of the cities of Washington, Alexandria, and Georgetown, the Assistant Postmaster-General, the Commissioner of the General Land Office."

1st sess. 24th Cong. J. of S., 167.] FEBRUARY 16, 1836.

The following motion, submitted by Mr. Buchanan, was considered:

Resolved, That the rules of the Senate be so modified that each Senator may introduce not exceeding two ladies daily into the circular lobby, under such regulations as the Vice-President may direct.

On motion by Mr. Linn,

To amend the same by striking out all after the word "*resolved*" and inserting *That the circular gallery be appropriated to ladies, and gentlemen accompanying them, and that each Senator have the privilege of introducing three gentlemen to said gallery.*

Mr. Moore moved to lay the original motion on the table; and

It was determined in the negative—yeas 19, nays 25.

* * * * * * *

The question recurring on Mr. Linn's amendment,

It was determined in the negative—yeas 12, nays 31.

* * * * * * * *

On the question to agree to the original motion of Mr. Buchanan,

It was determined in the negative—yeas 20, nays 24.

1st sess. 24th Cong., J. of S., 309.] APRIL 26, 1836.

On motion of Mr. Mangum, and by unanimous consent,

Resolved, That the rules of the Senate be so amended as to admit into the lobby of the Senate chamber ex-governors of States.

2d sess. 24th Cong., J. of S., 85.] JANUARY 3, 1837.

Resolved, That the forty-seventh rule of the Senate be amended as follows: After "country" insert *or who have received medals by a vote of Congress.*

2d sess. 24th Cong., J. of S., 156.] JANUARY 24, 1837.

The following motion, submitted by Mr. Ruggles, was considered and agreed to:

Resolved, That the forty-seventh rule of the Senate be amended as follows: After "Navy Board" insert *Commissioner of Patents.*

JUDGES OF STATE COURTS.

1st sess. 25th Cong., J. of S., 47.] SEPTEMBER 28, 1837.

The following motion, submitted by Mr. Calhoun, was considered by unanimous consent and agreed to:

Resolved, That the forty-seventh rule be amended as follows:

After the word "Union" insert *judges of the supreme courts of law and equity of any State.*

REVISION OF THE RULE.

2d sess. 25th Cong., J. of S., 318.] MARCH 26, 1838.

Ordered, That the forty-seventh rule of the Senate be referred to a select committee, to consist of five members, to be appointed by the Vice-President; and Mr. Bayard, Mr. Tipton, Mr. King, Mr. Buchanan, and Mr. Sevier were appointed the committee.

Ib., 375.] APRIL 24, 1838.

Mr. Bayard, from the select committee appointed 26th of March, on the subject of the forty-seventh rule of the Senate, reported the following as a substitute therefor; which was read and ordered to be printed:

RULE 47. The following persons, and none others, shall be admitted on the floor of the Senate: members of the House of Representatives and their clerk; the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Attorney-General, and the Postmaster-General; the private secretary of the President, chaplains of Congress, judges of the United States, foreign ministers and their secretaries; officers who by name have received, or shall hereafter receive, the thanks of Congress for their gallantry and good conduct in the service of their country, or who have received medals by a vote of Congress; the governor for the time being of any State or Territory of the Union; the ex-governors of the several States; such gentlemen as have been heads of departments or members of either branch of Congress; persons who for the time being belong to the respective State and Territorial legislatures, and persons belonging to such legislatures of foreign governments as are in amity with the United States; two reporters for each of the daily papers, and one reporter for each triweekly paper published in the city of Washington, whose names shall be communicated in writing by the editors of those papers to the Secretary of the Senate, and who shall confine themselves to the seats now provided for them.

[Adopted July 9, 1838 (ib., 579).]

DISTRICT ATTORNEY FOR THE DISTRICT OF COLUMBIA.

1st sess. 26th Cong., J. of S., 129.] JANUARY 23, 1840.

Mr. Merrick submitted the following motion for consideration:

Resolved, That the rules of the Senate be so modified as to admit on the floor of the Senate, the district attorney of the United States for the District of Columbia, and reporter of the Supreme Court.

[Disagreed to January 28 (ib., 139.) *v. infra p.* 25, where the privilege was granted.]

EX-OFFICERS OF THE SENATE.

1st sess. 29th Cong., J. of S., 136.] FEBRUARY 5, 1846.

By unanimous consent it was

Resolved, That the forty-seventh rule of the Senate be so amended as to admit on the floor of the Senate the ex-officers of the Senate.

[In response to question, Mr. Mangum, who offered the resolution, stated that its principal object was to permit the admission of ex-printers of the Senate, some of whom were still performing services for that body, but that it was extended by courtesy to all ex-officers. (Cong. Globe, 1st sess. 29th Cong., 310.)]

HEADS OF BUREAUS OF DEPARTMENTS.

1st sess. 30th Cong., J. of S., 50.] DECEMBER 14, 1847.

Mr. Niles submitted the following resolution for consideration:

Resolved, That the auditors of the Treasury and the chiefs of the bureaus of the Navy Department be entitled to seats on the floor of the Senate.

[For Mr. Niles's remarks on the resolution see Globe, 1st sess. 30th Cong., 27.]

Ib., 57.] DECEMBER 15, 1847.

The Senate proceeded to consider the resolution submitted yesterday by Mr. Niles; and, having been modified, on the motion of Mr. Niles, it was agreed to as follows:

Resolved, That the heads of the bureaus of the Treasury, War, Navy, and Post-Office Departments be admitted to seats on the floor of the Senate.

VISITORS.

1st sess. 31st Cong., J. of S. 351.] MAY 23, 1850.

Mr. Hale submitted the following resolution, which was considered by unanimous consent:

Resolved, That a select committee of three be raised, with instructions to inquire and report to the Senate what alterations or amendments of the rules of the Senate, if any, are necessary relating to admissions on the floor of the Senate.

An amendment being proposed by Mr. Mangum,

On motion by Mr. King,

Ordered, That the resolution and the proposed amendment be referred to a committee consisting of three members, to be appointed by the Vice-President; and

Mr. Mangum, Mr. Foote, and Mr. Hale were appointed.

1st sess. 31st Cong., S. Rept., 156.] JUNE 20, 1850.

Mr. Hale made the following report:

The committee to whom was referred the resolution offered by the Senator from New Hampshire, and the amendment thereto by the Senator from North Carolina, relative to an amendment of the rules of the Senate regulating admissions to the floor of the Senate, having had the subject under consideration, report the following addition to the forty-seventh rule, viz:

Blank tickets, equal to the number of Senators for the time being, shall be prepared, and one ticket may be issued, under the direction of the Vice-President, by such officer as he may designate, to each Senator, at his request, on which ticket his name shall be indorsed, and which ticket shall entitle the person to whom it may be delivered to admission on the floor of the Senate.

[June 24, the report was laid on the table (J. of S., 416) and again August 28 (ib., 588). See Congressional Globe, 1st sess. 31st Cong., 1279.]

REGISTRATION OF PERSONS ADMITTED.

2d sess. 32d Cong., J. of S., 346.] MARCH 17, 1853.

Resolved, That the forty-eighth rule of the Senate be amended to read as follows:

The following persons and none other shall be admitted on the floor of the Senate: members of the House of Representatives and their clerk; the Secretary of State, the Secretary of the Treasury, the Secretary of the Interior, the Secretary of War, the Secretary of the Navy, the Attorney-General, the Postmaster-General; the private secretary of the President, chaplains of Congress, judges of the United States, foreign ministers and their secretaries, officers who by name have received, or shall hereafter receive, the thanks of Congress for their gallantry and good conduct in the service of their country, or who have received medals by vote of Congress; the governor for the time being of any State or Territory of the Union; the ex-governors of the several States; the ex-officers of the Senate; such gentlemen as have been heads of Departments, secretaries, clerks, or members of either branch of Congress; members who for the time being belong to the respective State and Territorial legislatures; and persons belonging to such legislatures of foreign governments as are in amity with the United States.

No person except members and officers of the Senate shall be admitted at either of the side doors of the Senate Chamber; and all persons claiming admission on the floor of the Senate, excepting members and the Clerk of the House of Representatives for the time being, the heads of the several Departments, the private secretary of the President, the chaplains of Congress, judges of the United States, foreign ministers and their secretaries, and officers who by name shall have received the thanks of Congress or medals by vote of Congress, shall (each time before being admitted upon the floor) enter their names, together with the official position in right of which they claim admission, in a book to be provided and kept at the main entrance of the Senate Chamber; and no person except members of the Senate shall be allowed within the bar of the Senate, or to occupy the seat of a Senator.

[Cong. Globe, 2d sess. 32d Cong., App., 284, gives the debate.]

[January 23, 1854, this privilege was still further extended by admitting the Superintendent of Public Printing; the deputy postmaster of the city of Washington, and the marshal of the United States for the District of Columbia; the clerk of the Supreme Court; ministers of the United States to foreign governments, and their secretaries; the Superintendent of the Coast Survey; the mayor of Washington; the heads of bureaus; the secretary and members of the board of regents of the Smithsonian Institution; the district attorney of the United States for the District of Columbia; judges of the courts of record of the several States, and persons who

had been chancellors or judges of the highest courts of law or equity of the several States; such gentlemen as had been Sergeants-at-Arms of either branch of Congress.

The officers of the Senate were dropped from the list of those admitted at the side doors, and the list of persons who were not required to register their names was extended to include the Sergeant-at-Arms of the House of Representatives; judges of the several States; ministers and ex-ministers of the United States, their secretaries and ex-secretaries; the clerk of the Supreme Court; the Superintendent of the Coast Survey; the mayor of Washington; heads of bureaus; the secretary and members of the board of regents of the Smithsonian Institution; the district attorney of the United States for the District of Columbia, and persons who had been chancellors or judges of the highest courts of law or equity of the several States.

So that those of whom registration was required were: the Superintendent of Public Printing, the deputy postmaster of the city of Washington, the marshal of the United States for the District of Columbia, governors and ex-governors of States or Teritories, ex-officers of the Senate and those who had been heads of Departments, secretaries, clerks, sergeants-at-arms, or members of either branch of Congress, and members of State or Territorial legislatures, and of legislatures of countries in amity with the United States.]

PRIVILEGE ABRIDGED.

2d sess., 35th Cong., J. of S., 92.] DECEMBER 23, 1858.

Mr. Trumbull submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That, until the Senate otherwise order, no person, except Senators, the officers of the Senate, and members of the House of Representatives, be admitted on the floor of the Senate while in session.

[The above rule was adopted just before moving into the new Chamber, the Senate feeling that the privilege must be curtailed in order to prevent annoyance, especially to the members occupying the back row of desks, there being no bar. (Globe, 2d sess., 35th Cong., 194.)

January 5, 1859, Mr. Iverson submitted a resolution to amend this order. It was referred to the Committee on the Library (J. of S., 109).

The committee reported January 10 (ib., 120), on the same day the report was considered (ib., 123), and it was]

Resolved. That the following be substituted for the forty-eighth rule of the Senate:

48. No person shall be admitted to the floor of the Senate, while in session, except as follows, viz: The officers of the Senate, members of the House of Representatives and their clerk, the President of the United States and his private secretary, the heads of departments, foreign ministers, ex-Presidents and ex-Vice-Presidents of the United States, ex-Senators, Senators-elect, and judges of the Supreme Court.

ARCHITECT OF THE CAPITOL EXTENSION.

2d sess., 35th Cong., J. of S., 313.] FERRUARY 14, 1859.

Resolved, That the officer in charge of the construction of the Capitol extension be admitted to the floor of the Senate during the progress of the work in the north wing of the Capitol building.

[Cong. Globe, 2d sess., 35th Cong., 1013.]

ENGINEER IN CHARGE OF HEATING.

1st sess. 36th Cong., J. of S., 10.] DECEMBER 14, 1859.

Mr. Davis submitted the following motion; which was considered by unanimous consent and agreed to:

Ordered, That the assistant engineer in charge of heating and ventilating have the privilege of the floor of the Senate so far as in the opinion of the Presiding Officer his duties make it necessary.

[Cong. Globe, 1st sess. 36th Cong., 141.]

CHAPLAINS.

1st sess. 36th Cong., J. of S., 381.] APRIL 11, 1860.

Mr. Chandler submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the chaplains of the Senate and the House of Representatives, for the time being, be entitled to admission upon the floor of the Senate.

GOVERNORS OF STATES.

1st sess. 36th Cong., J. of S., 433.] MAY 7, 1860.

Mr. Chandler submitted the following resolution; which was considered by unanimous consent and referred to the Committee on the Library:

Resolved, That governors of States and Territories be admitted upon the floor of the Senate.

PRIVATE SECRETARIES.

2d sess. 42d Cong., J. of S., 298.] FEBRUARY 29, 1872.

Mr. Pomeroy submitted the following resolution, which was referred to the Select Committee on the Revision of the Rules:

Resolved, That the private secretary of any Senator may be admitted to the floor of the Senate, when that Senator is not chairman of a committee entitled to a clerk.

That the private secretary of any Senator may be admitted on the floor of the Senate when that Senator is not chairman of a committee entitled to a clerk.

[And the committee reported (ib., 320).]

Add to the forty-seventh rule "and General of the Army, Admiral of the Navy, members of the national legislatures of foreign countries, private secretaries of Senators duly appointed in writing, not chairmen of committees entitled to a clerk."

[And this report was amended by striking out the words "not chairmen of committees entitled to a clerk" and inserting "and the Librarian of Congress," and agreed to March 5, 1872 (ib., 327).]

[Cong. Globe, 2d sess. 42d Cong., 1284, 1286.

HEADS OF DEPARTMENT BUREAUS.

2d sess. 45th Cong., J. of S., 523.] MAY, 17 1878.

Mr. Howe submitted the following resolution:

Resolved, That the Committee on Rules be instructed to consider and report upon the propriety of so amending the standing rules of the Senate as to admit the heads of bureaus in the Executive Departments to the floor of the Senate during its sessions.

The Senate proceeded, by unanimous consent, to consider the said resolution; and having been amended, on the motion of Mr. Hamlin, by adding thereto the following:

And further to inquire into the propriety or expediency of adopting a rule preventing any Senator from being at the Secretary's desk while the yeas and nays are being taken,

The resolution as amended was agreed to.

[January 17, 1877, the rule regulating admissions to the floor was revised, and there were added to those entitled to admission ministers of the United States (2d sess. 44th Cong., J. of S., 125).

The rule was again revised January 11, 1884 (1st sess. 48th Cong., J. of S., 156), and the Sergeant-at-Arms of the House of Representatives, the Assistant Librarian in charge of the Law Library, and the judges of the Court of Claims were added to the list, while ex-Presidents and ex-Vice-Presidents of the United States and foreign ministers were dropped. The Hon. George Bancroft was mentioned by name in the list of persons entitled to the privilege (*v. infra*, p. 44), and the privilege was restored to the Architect of the Capitol Extension, who had been omitted in the revision of 1877. Clause 2 was modified to read:]

2. No person shall be admitted to the floor as private secretary of a Senator until the Senator appointing him shall certify in writing to the Sergeant-at-Arms that he is actually employed for performance of the duties of such secretary, and is engaged in the performance of the same.

[This rule was discussed as Rule XXXIV, Cong. Rec., 1st sess., 48th Cong., 368,]

1st sess. 48th Cong., J. of S., 291.] FEBRUARY 11, 1884.

On motion by Mr. Platt,

Ordered, That the subject of the construction of clause 3, Rule XXXIII, which provides for the admission of heads of Departments to the floor of the Senate, be referred to the Committee on Rules for its consideration.

1st sess. 48th Cong., J. of S., 462.] MARCH 25, 1884.

Mr. Frye, from the Committee on Rules, to whom was referred, on the 11th of February, 1884, the subject of the construction of clause 3, Rule 33, which provides for the admission of heads of Departments to the floor of the Senate, reported that in the opinion of the committee, the rule limits the admission to members of the Cabinet only.

[Cong. Rec., 1st sess. 48th Cong., 2236.]

COMMISSIONER OF AGRICULTURE AND SECRETARY OF THE SMITHSONIAN INSTITUTION.

1st sess. 48th Cong., J. of S., 515.] APRIL 8, 1884.

Mr. Plumb submitted the following resolution for consideration:

Resolved, That Rule XXXIII be amended by adding after the words "The heads of Departments," in the seventh line of the rule as printed for the use of the Senate, the following: "including the Commissioners of Agriculture."

1st sess. 48th Cong., J. of S., 518.] APRIL 9, 1884.

The President *pro tempore* laid before the Senate the resolution submitted by Mr. Plumb to amend Rule XXXIII of the Senate, extending to the Commissioners of Agriculture the privileges of the floor of the Senate; and,

On motion by Mr. Harris,

Ordered, That the said resolution be referred to the Committee on Rules.

1st sess. 48th Cong., J. of S., 555.] APRIL 21, 1884.

Mr. Frye, from the Committee on Rules, reported the following resolution for consideration:

Resolved, That Rule XXXIII of the standing rules of the Senate be amended by inserting after the words "judges of the Court of Claims" the words *the Commissioner of Agriculture*, and by striking out, in line 22, the word "extension."

On motion by Mr. Frye,

Ordered, That the Committee on Rules be discharged from further consideration of the resolution submitted by Mr. Plumb on the 8th instant to amend Rule XXXIII of the Senate so as to admit to the floor of the Senate the Commissioner of Agriculture.

1st sess. 48th Cong., J. of S., 565.] APRIL 22, 1884.

Resolved, That Rule XXXIII of the standing rules of the Senate be amended by inserting after the words "heads of Departments" the words *the Commissioner of Agriculture*, and by striking out, in line 22, the word "extension," and by inserting, after the words "Architect of the Capitol," the words *the Secretary of the Smithsonian Institution*.

[Cong. Rec., 1st sess. 48th Cong., 3206-3208.]

COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

1st sess. 48th Cong., J. of S., 729.] JUNE 6, 1884.

Mr. Harris submitted the following resolution; which was referred to the Committee on Rules, and ordered to be printed:

Resolved, That the thirty-third rule of the Senate be so amended as to insert after the words "Admiral of the Navy," the words "*the Commissioners of the District of Columbia.*

Id., 734.] JUNE 9, 1884.

Mr. Harris, from the Committee on Rules, to whom was referred the resolution submitted by him on the 6th instant, to amend Rule XXXIII, so as to admit to the floor of the Senate the Commissioners of the District of Columbia, reported it without amendment.

Ib., 762.] JUNE 13, 1884.

On motion by Mr. Harris,

The Senate proceeded to consider the resolution submitted by him on the 6th instant, to amend Rule XXXIII so as to admit to the floor of the Senate the Commissioners of the District of Columbia; and

The resolution was agreed to.

[Cong. Rec., 1st sess. 48th Cong., 5080.]

CLERK OF THE HOUSE COMMITTEE ON ENROLLED BILLS.

2d sess. 48th Cong., J. of S., 79.] DECEMBER 19, 1884.

Ordered, That the clerk of the Committee on Enrolled Bills of the House of Representatives be entitled to the privileges of the floor of the Senate for the purpose of communicating with the Committee on Enrolled Bills of the Senate.

[Cong. Rec., 2d sess. 48th Cong., 347.]

EX-SPEAKERS OF THE HOUSE OF REPRESENTATIVES.

1st sess. 50th Cong., J. of S., 1171.] JULY 25, 1888.

Mr. Hoar submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That the rules of the Senate be so amended as to add to the list of persons entitled to the privilege of the floor ex-Speakers of the House of Representatives of the United States.

[On the same day (ib., 1173)]

Mr. Harris, from the Committee on Rules, to whom was referred the resolution submitted by Mr. Hoar, to add to the list of persons entitled to the privilege of the floor ex-Speakers of the House of Representatives, reported it without amendment.

The Senate proceeded, by unanimous consent, to consider the resolution; and

The resolution was agreed to.

PRESIDENT-ELECT AND VICE-PRESIDENT-ELECT.

2d sess. 50th Cong., J. of S., 113.] JANUARY 4, 1889.

On motion by Mr. Aldrich, from the Committee on Rules, and by unanimous consent,

Resolved, That Rule XXXIII be amended by inserting after the words "President of the United States and his private secretary," the words *the President elect and Vice-President elect of the United States.*

MEMBERS-ELECT OF THE HOUSE OF REPRESENTATIVES.

2d sess. 48th Cong., J. of S., 418.] FEBRUARY 28, 1885.

On motion by Mr. Hoar,

Ordered, That the second clause of Rule XXXIII, relative to admission to the floor of the Senate, be construed to include members elect of the House of Representatives.

2d sess. 50th Cong., J. of S., 385.] FEBRUARY 22, 1889.

Ordered, That members elect of the House of Representatives be admitted to the floor of the Senate during the remainder of the present session.

MARBLE ROOM.

2d sess. 41st Cong., J. of S., 36.] DECEMBER 9, 1869.

Ordered, That the Sergeant-at-Arms cause the floor of the Senate to be cleared of all persons not entitled to the privilege thereof, five minutes before the hour fixed for the opening of each session of the Senate.

[Cong. Globe, 2d sess. 41st Cong., 47.]

2d sess. 41st Cong., J. of S., 915.] JUNE 30, 1870.

On motion by Mr. Edmunds,

Ordered, That the Sergeant-at-Arms be directed to exclude from the Marble Room and adjacent corridor during the session of the Senate for the residue of the session persons not entitled to admission on the floor of the Senate.

[A similar resolution was adopted at the next session. (3d sess. 41st Cong., J. of S., 418.)]

LADIES.

2d sess. 24th Cong., J. of S., 337.] MARCH 3, 1837.

Mr. Linn, by unanimous consent, had leave to submit the following, which was considered and agreed to:

Resolved, That the forty-seventh rule of the Senate be suspended so far as to allow the Senators to introduce ladies on the floor of the Senate, without the bar, on the 4th instant.

2d sess. 26th Cong., J. of S., 184.] FEBRUARY 16, 1841.

Mr. Norvel submitted the following resolution for consideration:

Resolved, That the forty-seventh rule be so far suspended as that ladies introduced by senators may, for the residue of the present session, be admitted to privileges of seats within the Senate.

2d sess. 26th Cong., J. of S., 195.] FEBRUARY 20, 1841.

The Senate resumed consideration of the motion submitted on the 16th instant to suspend the forty-seventh rule so far as to admit ladies on the floor of the Senate.

It was determined in the negative, { Yeas 17
Nays 28

[Cong. Globe, 2d sess., 26th Cong., 197.]

1st sess. 31st Cong., J. of S., 134.] FEBRUARY 6, 1850.

On motion by Mr. Mangum, and by unanimous consent,

Resolved, That the forty-seventh rule of the Senate be suspended during this day so far as to admit ladies on the floor of the Senate.

* * * * * * *

The Senate resumed consideration of the resolution submitted by Mr. Clay the 29th of January in relation to the adjustment of the existing questions of controversy between the States of the Union, arising out of the institution of slavery.

[February 8 (ib., 137), February 11 (ib., 139), February 12 (ib., 143), February 13 (ib., 149), February 20 (ib., 168), February 25 (ib., 173), and Mar. 7 (ib., 199), each time on motion of Mr. Foote, this rule was "suspended so far as to admit ladies on the floor of the Senate" during the day.

[Cong. Globe, 1st sess. 31st Cong., 301, 323, 333, 356, 395, 476. There was no discussion.]

1st sess. 33d Cong., J. of S., 167.] FEBRUARY 8, 1854.

On motion by Mr. Houston, Mr. Foote in the chair, that the forty-eighth rule be so far suspended as to allow the admission of ladies on the floor of the Senate this day, the same was objected to by Mr. Pettit;

Thereupon,

The President decided that the motion required the unanimous consent of the Senate.

[Cong. Globe, 1st sess. 33d Cong., 376. There was no discussion.]

2d sess. 33d Cong., J. of S., 318.] FEBRUARY 26, 1855.

On motion by Mr. Shields,

Ordered, That the forty-eighth rule of the Senate be so far suspended as to admit ladies on the floor of the Senate during the presentation of the sword of Gen. Jackson.

1st sess. 35th Cong., J. of S., 274.] MARCH 23, 1858.

Resolved, That the ladies be allowed to occupy for this evening seats in the Senate Chamber.

[The admission of Kansas being under consideration.]

2d sess. 35th Cong., J. of S., 93.] JANUARY 4, 1859.

On motion by Mr. Stuart, that during this day ladies be admitted on the floor of the Senate,

The consideration thereof was objected to as against the rule.

[Cong. Globe, 2d sess. 35th Cong., 202.]

REPORTERS.

In 1802 it was decided to admit reporters within the area of the Senate Chamber, and they were assigned a place by the President of the Senate. This arrangement was afterwards changed and the reporters assigned seats in the gallery. In 1835 they were moved to the floor again, and in 1840 those entitled to this privilege were limited to two reporters for each of the daily papers and one from each triweekly paper printed in Washington, and in 1841 the reporters were all moved to the gallery. In 1847 the official reporters were brought back to the floor. In 1859 the reporters of the Globe appear to have been placed in the gallery, but they were subsequently brought back to the floor.

2 J. of S., 388.] JULY 7, 1797.

On motion, "That such printers as may request it be accommodated with stands on the floor of the Senate to enable them to take notes of the proceedings on the present occasion" [*i. e.*, the proceedings against William Blount].

It passed in the negative.

3 J. of S., 165.] JANUARY 5, 1802.

The President laid before the Senate a letter, signed Samuel H. Smith, stating that he was desirous of taking notes of the proceedings of the Senate in such manner as to render them correct.

Whereupon,

Resolved, That any stenographer desirous to take the debates of the Senate on legislative business, may be admitted for that purpose at such place within the area of the Senate Chamber as the President may allot; and

On motion

To reconsider the above resolution,

It passed in the affirmative, { Yeas ..... 17 / Nays 10

[A motion to amend by adding after the word "stenographer," *He having given bond in the sum of ———, with two sufficient sureties in the sum of ——— each, for his good conduct*, was lost; yeas, 10; nays, 18; and the resolution was finally amended by adding the words, *or note taker*.]

So it was

Resolved, That any stenographer or note taker, desirous to take the debates of the Senate on legislative business, may be admitted for that purpose at such place within the area of the Senate Chamber as the President shall allot.

1st sess. 20th Cong., J. of S., 44.] DECEMBER 17, 1827.

The following motion, submitted by Mr. Harrison, was considered and agreed to.

Resolved, That the Secretary, under the direction of the President, cause seats to be prepared in the Chamber, for the accommodation of the reporters of the proceedings of the Senate.

[G. and S. Reg., vol. 4, p. 87.]

1st sess. 24th Cong., J. of S., 5.] DECEMBER 7, 1835.

Resolved, That the circular gallery be appropriated for the accommodation of ladies and gentlemen accompanying them.

The reporters shall be removed from the east gallery to places on the floor of the Senate, under the direction of the Secretary.

[Rule 47, adopted July 9, 1838, provided for seats on the floor for two reporters for each of the daily papers and one reporter for each triweekly paper published in the city of Washington, (*v. supra*, p. 24).]

1st sess. 26th Cong., J. of S., 216.] MARCH 4, 1840.

Mr. Tappan submitted the following motion for consideration, which was read:

Resolved, That the forty-seventh rule be amended so as in the last paragraph thereof to read:

Two reporters for each of the daily papers and one reporter for each triweekly paper printed and published in the city of Washington, whose names shall be communicated in writing by the editors of these papers to the Secretary of Senate, and who shall confine themselves to the seats now provided for them.

[Considered March 6, 1840 (ib., 223). An attempt to substitute "District of Columbia" for "city of Washington" failed, yeas 16, nays 25; and the resolution was passed, yeas 25, nays 16.]

1st sess. 26th Cong., J. of S., 438.] JUNE 17, 1840.

Mr. Walker submitted the following motion for consideration:

Resolved, That a select committee be appointed to inquire into the propriety of selecting an equal number of reporters of both political parties, who shall be sworn to report correctly, as far as practicable, the proceedings of this body.

[July 3, this was agreed to (ib., 469).]

1st. sess. 27th Cong., J. of S., 73.] JULY 6, 1841.

So much of rule 47 as respects the presence of reporters on the floor of the Senate was referred to a select committee, Messrs. Bayard, Graham, Evans, King, and Walker.

July 8 (ib., 78) the committee reported in part, and in accordance therewith the Senate

Resolved, That so much of the forty-seventh rule of the Senate as admits reporters on the floor of the Senate is rescinded; and that the Secretary cause suitable accommodations to be prepared, in the eastern gallery, for such reporters as may be admitted by the rules of the Senate.

[September 8 Mr. Bayard reported resolutions for reporting which passed to a second reading. These required the Secretary to provide a gallery for the reporters over the chair of the President. The Senate adjourned September 11.]

1st sess. 30th Cong., J. of S., 82.] DECEMBER 29, 1847.

Mr. Mangum submitted the following motion for consideration:

Ordered, That the Vice-President be authorized and requested to have two movable desks provided for the reporter of the proceedings and debates of the Senate and his assistants, upon the floor of the Senate Chamber, to be used only during the sessions of the Senate, and to accommodate two persons.

[Referred to a select committee, January 4 1848 (ib., 87). The committee reported January 17.]

Ib., 114.] JANUARY 17, 1848.

The Senate proceeded to consider the report; and in concurrence therewith,

Ordered, That the Secretary of the Senate have two movable desks provided, as soon as may be, in the angles of the Senate Chamber, at the ends of the chord, to accommodate, each, one reporter.

1st sess. 31st Cong., J. of S., 351.] MAY 23, 1850.

Mr. Turney submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the editor of The Republic, a daily newspaper published in the city of Washington, be admitted on the floor of the Senate.

1st sess. 31st Cong., J. of S., 381.] JUNE 7, 1850.

Mr. Davis, of Mississippi, from the Committee on Public Buildings, reported the following resolution; which was read:

Resolved, That the Secretary of the Senate is hereby instructed to procure, and cause to be placed in the area in the center of the chamber, two chairs, suitable for the purpose, the same to be appropriated to the use of the official reporters of the Senate proceedings and debates.

[Agreed to June 10th (ib., 386).]

1st sess. 31st Cong., J. of S., 435.] JULY 2, 1850.

Mr. Dawson submitted the following resolution for consideration:

Resolved, That the editors of the newspaper styled "The Southern Press" have the usual privileges of the floor of the Senate granted other editors of newspapers in this city.

[Laid on the table July 18 (ib., 458)].

2nd sess. 35th Cong., J. of S., 119.] JANUARY 10, 1859.

Mr. Pearce, from the Committee on the Library, who were directed by resolution of the Senate of the 18th of February, 1858, to consider and report a plan for the accommodation of reporters in the gallery of the Senate, reported the following resolutions:

Resolved, That the front seat of the reporters' gallery shall be assigned to the reporters of the Globe.

Resolved, That the other seats in the reporters' gallery be numbered as directed by the presiding officer of the Senate, who, at the commencement of each Congress, may assign one seat to each newspaper in the city of Washington, and to such other daily newspapers elsewhere as may apply therefor; but if any of such papers have more than one reporter they may alternate, occupying only the one seat assigned to such newspapers. Seats in the reporters' gallery, however, shall not be assigned to any person, unless the presiding officer shall be satisfied that such person is a *bona fide* reporter of the particular newspaper by whose editor or editors he shall be certified to be so employed.

Resolved, That the presiding officer be authorized to make from time to time such further regulations in regard hereto as may be deemed proper by him.

Ib., 53.] DECEMBER 20, 1860.

A resolution was offered by Mr. Slidell, "To exclude from the reporters' gallery of the Senate, any reporter or reporters, who may be employed either partially or exclusively, by any agent or agents of the Associated Press."

[This was debated January 5, 1861, and withdrawn.]

[Cong. Globe, 2nd sess. 36th Cong., 249.]

2d sess. 39th Cong., J. of S., 19.] DECEMBER 5, 1866.

Mr. Sherman submitted the following resolution for consideration:

Resolved, That the Sergeant-at-Arms be directed to provide seats on the floor of

the Senate for the accommodation of one reporter of the New York Associated Press and one reporter for the United States and European News Association.

[December 6, referred to the Committee on Printing, (ib., 25).]

1st sess. 34th Cong., J. of S., 200.] MARCH 24, 1856.

Mr. Hale submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Sergeant-at-Arms be, and he hereby is, instructed to exclude all persons except reporters, from the seats appropriated in the Senate gallery for the use of reporters.

3d sess. 42nd Cong., J. of S., 611.] MARCH 12, 1873.

Mr. Anthony submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That it shall be the duty of the Select Committee on the Revision of the Rules to make and enforce all rules and regulations respecting the reporters' gallery of the Senate, and the occupation thereof; and said committee is directed to take such action from time to time as will confine the occupation of said gallery to *bona fide* reporters for daily newspapers, assigning not exceeding one seat to each paper; and said committee shall have power to provide a seat or seats on the floor for Associated Press reporters, and to regulate the occupation of the same.*

PARTICIPATION IN DEBATE BY CABINET OFFICERS.

3d sess. 46th Cong., J. of S., 35.] DECEMBER 7, 1880.

Mr. Wallace submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the following select committees be appointed for the present session, with the powers heretofore given to each on the subjects to which they respectively related; that is to say: * * * on the bill (S. 227) to provide that the principal officer of each of the Executive Departments may occupy a seat on the floor of the Senate and House of Representatives; * * * and that the membership of each of said committees be as at the last session.

3d sess. 46th Cong., Sen. Rep. No. 837.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1881.—Ordered to be printed.

Mr. Pendleton, from the select committee on the bill (S. 227) to provide that the principal officer of each of the Executive Departments may occupy a seat on the floor of the Senate and House of Representatives, submitted the following report:

The committee has considered the bill committed to it, and reports back the same with an amendment, and recommends its passage.

The amendment suggested by the committee is that the following words be added, at the end of the second section, to the bill: "and the Senate and House, respec-

* The following extract from a private letter from Mr. D. F. Murphy, official reporter, whose connection with the staff of reporters of the Senate began in 1848, obtained through the kindness of Mr. E. V. Murphy, is of value in this connection:

"Behind the portion of the gallery allotted to the reporters and correspondents was a small space for spectators, which made note-taking at times very difficult on account of the noise made by people coming in and going out, and their comments on the debates. This was represented to Senators and there was considerable conversation on the subject. The then venerable Secretary and his assistants at the Secretary's desk bitterly opposed allowing the reporters to have positions in front of the desk on the ground that it would interfere with the freedom of communication between them and Senators who had occasion to go to the desk to consult them. Finally, however, in June, 1850, a resolution was reported by Mr. Davis, of Mississippi, from the Committee on Public Buildings and Grounds, directing two places to be provided in front of the secretary's desk, one for each corps of official reporters. When the Intelligencer contract was relinquished and the work was transferred to the Globe, the Globe reporters took the Intelligencer seat, and when, a few years subsequently, the Union corps was dispensed with the Globe reporters occupied both seats, and when the removal was made to the new Chamber in 1859-'60, the arrangement was continued as a matter of course. So when the Congressional Record took the place of the Globe in 1873 it went on unchanged. Some years subsequently provision was also made on the floor of the Senate for a seat and table for the reporter of the associated press. After the official reporters were provided with facilities for taking notes on the floor of the chamber in front of the Secretary's desk, nobody ever thought of removing them."

tively, may, by standing orders, dispense with the attendance of one or more of said officers on either of said days." The bill thus amended provides—

"That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney-General, and the Postmaster-General shall be entitled to occupy seats on the floor of the Senate and House of Representatives, with the right to participate in debate on matters relating to the business of their respective departments, under such rules as may be prescribed by the Senate and House respectively.

"SEC. 2. That the said Secretaries, the Attorney-General, and the Postmaster-General shall attend the sessions of the Senate on the opening of the sittings on Tuesday and Friday of each week, and the sessions of the House of Representatives on the opening of the sittings on Monday and Thursday of each week, to give information asked by resolution, or in reply to questions which may be propounded to them under the rules of the Senate and House; and the Senate and House may, by standing orders, dispense with the attendance of one or more of said officers on either of said days."

The first section provides for a voluntary attendance, to take part in debate. The second section provides for a compulsory attendance, to give information. In order to carry into effect the second section, rules somewhat like the following should be adopted by each House, *mutatis mutandis:*

"That the Secretary of the Senate shall keep a notice-book, in which he shall enter, at the request of any member, any resolution requiring information from any of the Executive Departments, or any question intended to be propounded to any of the Secretaries, or the Postmaster-General, or the Attorney-General, relating to public affairs or to the business pending before the Senate, together with the name of the member and the day when the same will be called up.

"The member giving notice of such resolution or question shall, at the same time, give notice that the same shall be called up in the Senate on the following Tuesday or Friday: *Provided*, That no such resolution or question shall be called up, except by unanimous consent, within less than three days after notice shall have been given.

"The Secretary of the Senate shall, on the same day on which notice is entered, transmit to the principal officer of the proper department a copy of the resolution or question, together with the name of the member proposing the same, and of the day when it will be called up in the Senate.

"In the Senate, on Tuesday and Friday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

"The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information, and the Secretary of the proper department may reply, giving the information or the reasons why the same should be withheld, and then the Senate shall vote on the resolution, unless it shall be withdrawn or postponed.

"In putting any question to the Secretaries, or the Attorney-General, or Postmaster-General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question; and, in answering such questions, the Secretary, the Attorney-General, or Postmaster-General shall not debate the matter to which the same refers, nor state facts or opinions other than those necessary to explain the answer."

These rules relate only to the execution of the last section of the bill—to giving information—to putting and answering questions. They in nowise affect the debate permitted and invited by the first section. They have been framed after a most careful examination of the rules and modes of procedure of the British Parliament and the French Assembly, and are believed to contain the best provisions of both. They are framed to accomplish the purpose of obtaining the needed information with the least interference with the other duties of the heads of departments. No question can be called up unless after three days' notice to the Secretaries; and the answers are limited to the specific points of the question, in order that accuracy may be attained. These rules may be amended as experience shall show their defects.

The bill confers a privilege and imposes a duty on the heads of departments. The privilege is to give their suggestions and advice in debate, by word of mouth; the duty is to give information orally, and face to face.

The advantages of the system proposed are so obvious and manifold that the committee feels relieved from a detailed statement of them, and confines this report to an examination of the question of its constitutionality.

The committee entertains no doubt of the constitutional power to pass this bill. It believes all its provisions to be clearly within the letter and spirit of the Constitution, and in entire harmony with the structure and framework of the Government.

The power of both Houses of Congress, either separately or jointly, to admit per-

sons not members to their floors, with the privilege of addressing them, can not be questioned. "Each House may determine the Rules of its Proceedings," is the provision of the Constitution. Under this power each House admits a chaplain to open the proceedings with prayer. Under this power the House of Representatives constantly admits contestants to argue their title to membership, and sometimes admits counsel to argue in the same behalf. No one would doubt the power of the Senate to extend the same privilege to a claimant, or his advisers.

Bp the act of 1817, it is prescribed that "every Territory shall have the right to send a Delegate to the House of Representatives of the United States, to serve during each Congress, who shall be elected by the voters in the Territory qualified to elect members of the legislative assembly thereof. * * * Every such Delegate shall have a seat in the House of Representatives, with the right of debating, but not of voting." And under this authority the delegates of the eight Territories sit to-day in the House of Representatives, and participate in its debates. A precedent directly in point has stood unchallenged since the first year of the organization of the Government. The act of 1789, organizing the Treasury Department, provided that "the Secretary of the Treasury shall, from time to time, digest and prepare plans for the improvement and management of the revenue and for the support of the public credit. * * * shall make report and give information to either branch of the legislature, *in person* or *in writing*, as may be required, respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office."

When Hamilton made his great report on the public credit in 1790 he was, on motion, after discussion, required to make it in writing, because the details were so numerous that, delivered orally, they would not remain in the memory of his hearers; but the power and the propriety of requiring the personal presence of the Secretary were not then called in question, nor have they been questioned at any time since. This bill only permits and enjoins that to be done by all the Secretaries at convenient times which the law of 1789 required and permitted to be done at any time by the Secretary of the Treasury.

Your committee thinks it too plain for argument that Congress may enjoin upon the heads of the Departments the duty of giving information in the manner required by this bill. The constitutional provisions in relation to the Executive Departments are very simple. The President "may require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices;" and "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." These are all the provisions of the Constitution on this subject. Congress may, by inevitable implication, prescribe other duties and define other powers. Every act organizing every Department has prescribed the duties of the principal officers, and has required the head of every Department to report directly to Congress in reference to the discharge of the duties thus imposed upon his office.

If by a line of precedents since the organization of the Government Congress has established its power to require the heads of Departments to report to it directly, and also its power to admit persons to the floor of either House to address it, the argument would seem to be perfect that Congress may require the report to be made or the information to be given by the heads of Departments on the floor of the Houses, publicly and orally. The provision of the Constitution, that "no person holding any office under the United States shall be a member of either House during his continuance in office," is in no wise violated. The head of a Department, reporting in person and orally, or participating in debate becomes no more a member of either House than does the Chaplain, or the contestant or his counsel, or the Delegate. He has no official term; he is neither elected nor appointed to either House; he has no participation in the power of impeachment, either in the institution or trial; he has no privilege from arrest; he has no power to vote.

We are dealing with no new question. In the early history of the Government the communications were made by the President to Congress orally, and in the presence of both or either of the Houses. Instances are not wanting—nay, they are numerous—where the President of the United States, accompanied by one or more of his Cabinet, attended the sessions of the Senate and House of Representatives in their separate sessions, and laid before them papers which had been required and information which had been asked for.

"*Wednesday, July 22, 1789.*—The Secretary of Foreign Affairs (Mr. Jefferson) attended, agreeably to order, and made the necessary explanations." (Ann. of Cong., 1st Cong., Vol. 1, 51.)

"*Saturday, August 22, 1789.*—The Senate again entered on executive business. The President of the United States came into the Senate Chamber, attended by Gen. Knox, Secretary of War, and laid before the Senate the following statement of facts,

with the questions thereto annexed, for their advice and consent." (Ann. of Cong., 1st Cong., Vol. 1, 66.)

And again on the Monday following the President and Gen. Knox were before the Senate.

"*Friday, August 7, 1789.*—The following message was received from the President of the United States, by Gen. Knox, the Secretary of War, who delivered therewith sundry statements and papers relating to the same." (Proc. H. of R., Ann. of Cong., Vol. 1, 684.)

"*Monday, August 10, 1789.*—The following message was received from the President, by Gen. Knox [Secretary of War], who delivered in the same, together with statement of the troops in the service of the United States." (Proc. H. of R., Ann. of Cong., Vol. 1, 689.)

Instances of this kind might be almost indefinitely multiplied, but these serve sufficiently to exhibit the practice established at an early day by those who framed the Constitution. The committee refers to the Annals of Congress, at the pages cited, for very interesting details of the proceedings of those respective days. They are too long to be copied here in full.

This bill thus being clearly within the letter of the Constitution, is, in the opinion of your committee, as clearly within its spirit.

Your committee is not unmindful of the maxim that in a constitutional government the great powers are divided into legislative, executive, and judicial, and that they should be conferred upon distinct departments. These departments should be defined and maintained, and it is a sufficiently accurate expression to say that they should be independent of each other. But this independence in no just or practical sense means an entire separation, either in their organization or their functions—isolation, either in the scope or the exercise of their powers. Such independence or isolation would produce either conflict or paralysis, either inevitable collision or inaction, and either the one or the other would be in derogation of the efficiency of the Government. Such independence of coequal and coördinate departments has never existed in any civilized government, and never can exist.

The Constitution of the United States wisely distributed the powers of the Government, and, with equal wisdom, most carefully provided for the harmonious coöperation of the several departments to which such powers were confided.

The legislative power was confided to Congress; but one branch of Congress has the sole power of impeachment, and the other branch has the sole power to try such impeachment. Congress has the power to fix the compensation of all the officers of the United States, whether legislative, executive, or judicial; it "may by law provide for the case of removal, death, resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President;" it has the power to establish by law all offices not prescribed in the Constitution, and vest their appointment either in the President or in the courts or in the heads of Departments; it has the power to ordain and establish all courts not prescribed by the Constitution, to regulate the salaries and to define the jurisdiction and powers of their judges, to define all crimes which may be tried by these courts, and to direct the places of trial when the offense is not committed within the limits of any State.

The executive power is vested in the President; but he is authorized to participate in the law-making power so far as to give, from time to time, to Congress, information of the state of the Union; to recommend to their consideration such measures as he shall judge necessary and expedient; to convene both Houses of Congress, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. And no order, resolution, bill, or vote to which the concurrence of the Senate and House of Representatives may be necessary, shall take effect unless approved by him, or passed, notwithstanding his objection, by two-thirds majority of both houses.

The judicial power is confined to the courts of the United States; but by reason of the provision that the Constitution and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land, these courts are vested with the power of annulling every act of Congress by the declaration that it is unconstitutional.

This brief summary shows that the departments of the Government, intrusted as they are with the legislative, executive, and judicial power, though separate and in some sort independent, are yet, in their organizations and their functions, so intertwined and interdependent that they cross the boundaries of each other. They come in contact, but not in conflict. They cross the paths assigned to each, without meeting or clashing in the pathways. They are coöperative and harmonious, though distinct. They justify the saying of Mr. Adams, applied to the lawyers of Cincinnati, at a bar dinner given in his honor: "The harmony of conflicting elements is the true music of the spheres."

The history of the Government shows the admirable working of this system of

separate, yet coöperating departments. The legislative power has established and equipped the Executive with all the offices necessary to enable the President to discharge the duty of taking care that the laws be faithfully executed. The executve power has given to Congress the information and recommended to their consideration measures which have enabled it to perform its duty of making all laws which are necessary and proper, for carrying into execution the "powers vested by the Constitution in the Government of the United States, or in any department or officer thereof." And both the executive and the legislative powers, have, in coöperation, established the courts of the United States, and enabled the judiciary to perform its duties, not only of deciding all cases and questions referred to it under the Constitution, but of carrying into execution its judgment and decrees.

If there is anything perfectly plain in the Constitution and organization of the Government of the United States, it is that the great departments were not intended to be independent and isolated in the strict meaning of these terms; but that, although having a separate existence, they were to coöperate, each with the other, as the different members of the human body must coöperate with each other in order to form the figure and perform the duties of a perfect man.

The connection of the executive and the legislative departments of the Government illustrates this position most strongly. Congress can pass no law without the assent of the President. The President can establish no office without the consent of Congress. Congress must provide him with the means of executing the great trusts confided to him. He must communicate to Congress the information and make the suggestions of legislation which his experience in administration teaches to be desirable. And so uniformly has Congress acted upon this interdependence of the executive and the legislative departments, that, as has been before said, Congress requires the chief officers of every Executive Department to report to it directly as to the performance of the duties and the execution of the powers confided to it.

The result has been that the executive department, comprising in this term the President and the chief officers, has exercised necessarily and properly, great influence on the legislation of Congress.

The principles enacted into laws are comparatively few and simple. The machinery by which these few and simple principles can be carried into actual administration is complex, and can be perfected by experience only. The duties of administration necessarily compel the heads of departments to become familiar, not only with the best policy, but with the best methods of carrying policies into actual execution, and the consequence is that members of Congress, much less familiar, do in fact seek, either individually or through committees, the counsel and advice of these officers, and are, to a very great extent, influenced by them.

The influence is exerted by means of the annual reports, of private consultations, and of special reports made in answer to special resolutions of inquiry by either house, and the question really submitted to the consideration of Congress by this bill is, whether these means of communication will not be greatly improved by consultation between the members of Congress and these officers, face to face, on the floor of the houses. Your committee can not doubt that the result would be most beneficial, and that no elaboration of reasons is necessary to bring Senators to the same conclusion.

It has been objected that the effect of this introduction of the heads of departments upon the floor would be largely to increase the influence of the executive on legislation. Your committee does not share this apprehension. The information given to Congress would doubtless be more pertinent and exact; the recommendations would, perhaps, be presented with greater effect, but on the other hand, the members of Congress would also be put on the alert to see that the influence is in proportion only to the value of the information and the suggestions; and the public would be enabled to determine whether the influence is exerted by persuasion or by argument. No one who has occupied a seat on the floor of either house, no one of those who, year after year, so industriously and faithfully and correctly report the proceedings of the houses, no frequenter of the lobby or the gallery, can have failed to discern the influence exerted upon legislation by the visits of the heads of departments to the floors of Congress and the visits of the members of Congress to the offices in the departments. It is not necessary to say that the influence is dishonest or corrupt, but it is illegitimate; it is exercised in secret by means that are not public—by means which an honest public opinion can not accurately discover, and over which it can therefore exercise no just control. The open information and argument provided by the bill may not supplant these secret methods, but they will enable a discriminating public judgment to determine whether they are sufficient to exercise the influence which is actually exerted, and thus disarm them.

It has been objected that the introduction of the heads of departments on the floor would impair the influence of the executive power; that it would bring them and Congress in closer relations and thus lessen their dependence on the President, and, to that extent, deprive him of his constitutional power and relieve him of his consti-

tutional responsibility. It would be enough to say, in answer to this objection, that no power exists anywhere to diminish the duties or powers or responsibilities imposed by the Constitution upon the President. The committee ventures again to repeat that the effect of the bill does not seek to—and will not—aggrandize or impair the executive power as defined in the Constitution and vested in the President.

The President, and the President alone, is the constitutional executive; he and he alone is the coördinate executive branch of the Government; he and he alone is the "commander-in-chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States." He and he alone "shall have power to grant reprieves and pardons for offenses against the United States;" to make treaties with the advice and consent of the Senate, provided two-thirds of the Senators present concur; to nominate and by and with the advice and consent of the Senate to appoint ambassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not otherwise provided for; "to give to Congress information as to the state of the Union;" on extraordinary occasions to convene and adjourn Congress; "to receive ambassadors and other public ministers; to take care that the laws be faithfully executed; to commission all the officers of the United States;" and to exercise the veto power. These are the functions of the executive power which is vested in the President by the Constitution. They can be performed neither in whole nor in part by another; neither the President nor the Congress nor both can delegate them or abridge them. Both the President and the Congress are bound to maintain and protect them. The departments and their principal officers are in no sense sharers of this power. They are the creatures of the laws of Congress, exercising only such powers and performing only such duties as those laws prescribe.

The First Congress, after long debate, decided that the President should have the power of appointment and removal, unimpaired, except, as in all other cases, by impeachment; and that the Secretaries should perform all the duties imposed upon them by law and by the constitutional power of the President to call for written opinions. The Secretaries were made heads of departments; they were charged by law with certain duties, and invested by law with certain powers to be used by them in the administration confided to them by the laws. They are in no sense ministers of the President, his hand, his arm, his irresponsible agent, in the execution of his will. There was no relation analogous to that of master and servant or principal and agent. The President can not give them dispensation in the performance of duty, or relieve them from the penalty of nonperformance. He can not be impeached for their delinquency; he can not be made to answer before any tribunal for their inefficiency or malversation in office; public opinion does not hold him to stricter responsibility for their official conduct than that of any officer. They are the creatures of law and bound to do the bidding of the law.

This bill will not change their legal relations, either to the President or to the Congress. It will not make their tenure of office in any wise dependent on the favor of Congressional majorities or on adverse votes of either or both of the houses. They can not assume undue leadership in Congress, because success will not prolong, as defeat will not terminate, their tenure of office. They may be removed by the President at any moment, notwithstanding their success. They may be maintained in office by him during his whole term notwithstanding their defeat. At the end of his term they will almost certainly leave office and probably soon have place in Congress. Their independence of Congress will prevent their succumbing to its will, and will rouse the natural jealousy of Congress to resist their power becoming too great. The concurrence of opinion between the President and Congress is not essential, perhaps is not possible. Neither will be broken down by the assertion of the will of the other in its own department, because both will soon be called to judgment by the people, and the people will correct any antagonism which threatens the effective working of the Government.

This system will require the selection of the strongest men to be heads of departments, and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts, and will thus assuredly result to the good of the country.

If it should appear by actual experience that the heads of departments in fact have not time to perform the additional duty imposed on them by this bill, the force in their offices should be increased, or the duties devolving on them personally should be diminished. An under-secretary should be appointed to whom could be confided that routine of administration which requires only order and accuracy. The principal officers could then confine their attention to those duties which require wise discretion and intellectual activity. Thus they would have abundance of time for their duties under this bill. Indeed, your committee believes that the

public interest would be subserved if the Secretaries were relieved of the harassing cares of distributing clerkships and closely supervising the mere machinery of the departments. Your committee believes that the adoption of this bill and the effective execution of its provisions will be the first step towards a sound civil-service reform, which will secure a larger wisdom in the adoption of policies, and a better system in their execution.

GEO. H. PENDLETON.
W. B. ALLISON.
D. W. VOORHEES.
J. G. BLAINE.
M. C. BUTLER.
JOHN J. INGALLS.
O. H. PLATT.
J. T. FARLEY.

[The appendix giving the constitutional provisions of various countries on this subject is omitted. It may be found at pp. 9–12, Sen. Repts., Vol. 1, 3d sess. 46th Cong. No. 837.]

CONTESTANTS FOR SEATS.

WILLIAM BLOUNT AND WILLIAM COCKE.

2 J. of S., 269.] MAY 23, 1796.

A letter, signed William Blount and William Cocke, was read, stating that they have been duly and legally elected Senators to represent the State of Tennessee in the Senate.

On motion,

"That Mr. Blount and Mr. Cocke, who claim to be Senators of the United States, be received as spectators, and that chairs be provided for that purpose until the final decision of the Senate shall be given on the bill proposing to admit the Southwestern Territory into the Union."

A motion was made to refer the consideration thereof to a committee; and it passed in the negative.

On motion to agree to the original motion, it passed in the affirmative—yeas 12, nays 11; as follows: [The names are omitted.]

DAVID L. YULEE.

1st sess. 32d Cong., J. of S., 649.] AUGUST 27, 1852.

Resolved, That the Hon. D. L. Yulee, who contests the seat of the Hon. L. R. Mallory, have leave to be heard in person at the bar of the Senate for two hours.

[Mr. Yulee addressed the Senate on the same day.]

[Cong. Globe, 1st. sess., 32d Cong., 2390, and Appendix, 1174.]

HENRY S. LANE AND WILLIAM M. M'CARTY.

2d sess. 35th Cong., J. of S., 178.] JANUARY 24, 1859.

Mr. Seward submitted the following motion for consideration:

Resolved, That the Hon. Henry S. Lane and the Hon. William M. McCarty, who claim to have been elected Senators from Indiana, be entitled to the privileges of admission on the floor of the Senate until their claims shall have been decided.

Ib., 188.] JANUARY 26, 1859.

On motion by Mr. Seward, the Senate proceeded to consider the resolution, submitted by him the 24th instant, to admit the Hon. Henry S. Lane and the Hon. W. M. McCarty, claiming to have been elected Senators by the legislature of Indiana, on the floor of the Senate; and

After debate,

On motion by Mr. Iverson, that the resolution lie on the table, it was determined in the affirmative—yeas 31, nays 22. [The names are omitted.]

So it was

Ordered, That the resolution lie on the table.

Ib., 254.] FEBRUARY 3, 1859.

Mr. Seward submitted the following resolution for consideration:

"*Resolved*, That Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on

the Judiciary on the memorial of the legislature of Indiana declaring them her duly elected Senators, and that they have leave to speak to the merits of their right to seats and the report of the committee.

Ib., 315.] FEBRUARY 14, 1859.

On motion by Mr. Collamer, the Senate proceeded to consider the report of the Committee on the Judiciary on the memorial of the State of Indiana in relation to the Senators from Indiana, with the reported resolution, that the Committee on the Judiciary be discharged from the further consideration of the memorial of the legislature of Indiana.

An amendment having been proposed by Mr. Seward, to amend the resolution to discharge the Committee on the Judiciary by striking out all after "resolved," and inserting "That Henry S. Lane and William M. McCarty have leave to occupy seats on the floor of the Senate pending the discussion of the report of the Committee on the Judiciary on the memorial of the legislature of Indiana declaring them her duly elected Senators, and that they have leave to speak to the merits of their rights to seats, and on the report of the committee."

[On motion by Mr. Pugh, Mr. Seward's motion was amended by striking out all after the word "that," and inserting a declaration that the former decision of the Senate declaring Messrs. Fitch and Bright the duly elected Senators was final and conclusive.]

[Cong. Globe, 1014, 1019. Debate in Appendix (Cong. Globe, 128–148, Appendix).]

FREDERIC P. STANTON.

2d sess. 37th Cong., J. of S., 106.] JANUARY 13, 1862.

On motion by Mr. Collamer, that Frederic P. Stanton, who contests the seat of the Hon. James H. Lane, have leave to be heard in person at the bar of the Senate,

It was determined in the affirmative, { Yeas ..... 32 / Nays 4

So it was

Ordered, That Frederic P. Stanton, who contests the seat of Hon. James H. Lane, have leave to be heard in person at the bar of the Senate.

On motion by Mr. Fessenden, that the Senate reconsider the vote agreeing to the motion of Mr. Collamer,

It was determined in the negative.

[Cong. Globe, 2d sess. 37th Cong., 291.]

SENATORS-ELECT FROM ARKANSAS.

1st sess. 39th Cong., J. of S., 186.] FEBUARY 26, 1866.

A motion was made by Mr. Lane, of Kansas, to admit the Senators elect from the State of Arkansas to seats on the floor of the Senate.

On motion by Mr. Wade that the motion of Mr. Lane, of Kansas, lie on the table, it was determined in the affirmative—yeas 27; nays 18. [The names are omitted.]

So it was

Ordered, That the motion lie on the table.

[The debate is found Cong. Globe, 1st sess. 39th Cong., 1025–1027.]

CLAIMANTS FROM COLORADO.

1st sess. 39th Cong., J. of S., 143.] FEBRUARY 8, 1866.

On motion by Mr. Lane, of Kansas,

Ordered, That the Senators-elect from the State of Colorado be admitted to the floor of the Senate.

[Cong. Globe, 1st sess. 39th Cong., 734. There was no discussion.]

WILLIAM H. CLAGETT.

1st sess. 52d Cong., J. of S., 122] FEBRUARY 24, 1892.

Mr. Stewart submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That William H. Clagett, the contestant for the seat in the United States Senate now occupied by Hon. Fred. T. Dubois, have leave to occupy a seat on the floor of the Senate pending the discussion of the report of the Committee on Privileges and Elections, and that he have leave to speak to the merits of his right to have the seat, and on the report of the committee.

Ib., 125.] FEBRUARY 25, 1892.

The President *pro tempore* laid before the Senate the resolution yesterday submitted by Mr. Stewart, granting William H. Clagett, contestant for a seat in the Senate from the State of Idaho, leave to speak on his right to the seat; and having been amended, on motion of Mr. Mitchell, by inserting after the word "speak" the words *not exceeding two hours*.

On the question to agree to the resolution as amended as follows:

Resolved, That Willam H. Clagett, the contestant for the seat in the Senate now occupied by Hon. Fred. T. Dubois, have leave to occupy a seat on the floor of the Senate pending the discussion of the report of the committee on Privileges and Elections, and that he have leave to speak, not exceeding two hours, to the merits of his rights to the seat, and on the report of the committee.

It was determined in the affirmative—yeas 48, nays 1. [The names are omitted.]

So the resolution was agreed to.

[For the debate on this resolution see Cong. Rec., 1st sess. 52d Cong., 1430–1432.]

PETITIONERS.

2 J. of S, 481.] APRIL 27, 1798.

On motion by Mr. Marshall,

Resolved, That no motion shall be deemed in order to admit any person or persons whatever within the doors of the Senate Chamber to present any petition, memorial, or address, or to hear any such read.

[There was no discussion.]

2d sess. 45th Cong., J. of S., 76.] JANUARY 10, 1878.

Mr. Sargent submitted the following resolution for consideration:

Whereas thousands of the women of the United States have petitioned Congress for an amendment to the Constitution allowing women the right of suffrage; and

Whereas many of the representative women of the country favoring such amendment are present in the city and have requested to be heard before the Senate in the advocacy of said amendment:

Resolved, That at a session of the Senate to be held on ———, said representative women, or such of them as may be designated for that purpose, may be heard before the Senate, but for two hours only.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

On the question, Will the Senate agree thereto?

It was determined in the negative, { Yeas..... 13 / Nays..... 31

On motion by Mr. Sargent,

The yeas and nays being desired by one-fifth of the Senators present.

So the resolution was not agreed to.

[Cong. Rec., 2d sess. 45th Cong., 255–267.]

2d sess. 45th Cong., J. of S., 83.] JANUARY 14, 1878.

Mr. Edmunds submitted the following resolution; it was referred to the Committee on Rules and ordered to be printed:

Resolved, That the following be one of the standing rules of the Senate:

No motion shall be deemed in order to admit any person whatsoever within the doors of the Senate Chamber to present any petition, memorial, or address, or to hear any such read, or to address the Senate, except as parties or counsel in cases of contempt or impeachment.

DISTINGUISHED VISITORS AND OTHERS.

GENERAL LAFAYETTE.

2d Sess. 18th Cong., J. of S., 7.] DECEMBER 7, 1824.

A message from the House of Representatives, by Mr. Clarke, their Clerk;

Mr. PRESIDENT; The House of Representatives have passed a resolution for the appointment of chaplains; and a resolution for a joint committee to consider and report what respectful mode it may be proper for Congress to adopt to receive General Lafayette, and have appointed a committee on their part; in which resolutions they request the concurrence of the Senate, and he withdrew.

On motion by Mr. Barbour,

The Senate proceeded to consider the last-named resolution; and

Resolved, That the Senate concur therein.

2d sess. 18th Cong., J., of S., 28.] DECEMBER 8, 1824.

The commitee on the part of the Senate recommend that the President of the Senate invite General Lafayette to take a seat, such as he shall designate, in the Senate Chamber; that the committee deliver the invitation to the general, and introduce him into the Senate, and that the members receive the general standing.

The said report was read and consided.

Whereupon

Resolved, unanimously, That the Senate do agree therein.

Ib., 29.] DECEMBER 9, 1824.

At 1 o'clock, Gen. Lafayette was conducted into the Chamber of the Senate by the committee appointed for the purpose;

Whereupon

Mr. Barbour, as the chairman of the said Committee, introduced the General to the Senate, when the Senators arose from their seats and remained standing until the General was seated on the right of the chair of the President, to which he was invited by the President.

On motion by Mr. Barbour,

That the Senate do now adjourn, in order that the members may present their respects to General Lafayette individually, it was unanimously determined in the affirmative;

Whereupon

The President adjourned the Senate to Monday next.

LIEUT. WILKES.

2d sess. 27th Cong., J. of S., 447.] JULY 5, 1842.

Mr. Tappan submitted the following resolution:

Resolved, That the forty-seventh rule of the Senate be amended by adding to the persons who may be admitted on the floor of the Senate, Lieut. Wilkes and the officers who served with him during the exploring expedition.

The Senate proceeded to consider the resolution by unanimous consent, and

On the question to agree thereto,

It was determined in the negative.

[Cong. Globe, 2d sess. 27th Cong., 718.]

EX-PRESIDENT OF TEXAS.

2d sess. 28th Cong., J. of S., 178.] FEBRUARY 17, 1842.

By unanimous consent it was

Resolved, That the ex-President of the Republic of Texas be admitted on the floor of the Senate.

REV. THEOBALD MATTHEW.

1st sess. 31st Cong., J. of S., 9.] DECEMBER 19, 1849.

Mr. Walker submitted the following resolution for consideration:

Resolved, To admit Rev. Theobald Matthew within the bar of the Senate during his sojourn in Washington.

It was agreed to.

[Cong. Globe, 1st sess. 31st Cong., 51–59.]

[The resolution was objected to by Senators Calhoun, Dawson, and Foote as establishing a bad precedent. Mr. Clay argued in its favor:

"I understand that according to the usage of the Senate, any member may introduce into the lobby any distinguished person whom he thinks proper to introduce. I had understood that to be the rule; perhaps I am mistaken; but be that as it may, I think, sir, that that resolution is an homage to humanity, to philanthropy, to virtue; that it is a merited tribute to a man who has achieved a great social revolution—a revolution in which there has been no bloodshed, no desolation inflicted, no tears of widows and orphans extracted, and one of the greatest which has been achieved by any of the benefactors of mankind. Sir, it is a compliment due from the Senate, small as it may be. * * *]

LOUIS KOSSUTH.

1st sess. 32d Cong., J. of S., 88.] DECEMBER 29, 1852.

The committee reported that in relation to Louis Kossuth the same proceeding be taken as in the case of Gen. Lafayette, to wit: "That the chairman of the com-

committee introduce him with these words: 'We present Louis Kossuth to the Senate of the United States,' upon which the Senators are recommended to rise and the President will invite him to be seated."

And the report was agreed to.

[Cong. Globe, 1st sess. 32d Cong., 157.]

Ib., 95.] JANUARY 5, 1852.

At 1 o'clock Louis Kossuth was conducted into the Chamber of the Senate by the committee appointed for that purpose; and

Mr. Shields, as chairman of the committee, introduced him to the Senate.

The Senate having risen, the President *pro tempore* addressed him as follows:

"Louis Kossuth, I welcome you to the Senate of the United States. The committee will conduct you to the seat which I have caused to be prepared for you."

The Senators having resumed their seats,

On motion by Mr. Mangum,

That the Senate adjourn in order that the members may present their respects to Louis Kossuth individually,

It was determined in the affirmative; and

The Senate adjourned.

[Cong. Globe, 1st sess. 32d Cong., 199.]

OFFICERS AND SOLDIERS OF THE WAR OF 1812.

2d sess. 33d Cong., J. of S., 99.] JANUARY 9, 1855.

Resolved, That the officers and soldiers of the war of 1812, now holding a convention in this city, be invited to occupy seats upon the floor of the Senate, without the bar, during the sitting of the convention.

Resolved, That the Secretary of the Senate communicate a copy of this resolution to the president of the convention for the information of the members.

Considered by unanimous consent and agreed to.

[Cong. Globe, 2d sess. 33d Cong., 208.]

EX-PRESIDENT OF BOLIVIA.

1st sess. 36th Cong., J. of S., 127.] FEBRUARY 6, 1860.

On motion by Mr. Davis, and by unanimous consent,

Ordered, That the ex-President of the Republic of Bolivia be admitted on the floor of the Senate.

[Cong. Globe, 1st sess. 36th Cong. 669.]

VICE-ADMIRAL FARRAGUT.

2d sess. 38th Cong., J. of S., 67.] JANUARY 13, 1865.

Mr. Grimes announced the presence in the Senate Chamber of Vice-Admiral Farragut, of the United States Navy, distinguished for his many services, and the first officer in the naval service upon whom the title has been conferred; and moved that the Senate take a recess of ten minutes to enable the members of the Senate to exchange courtesies with him, and

The Senate, by unanimous consent, took a recess of ten minutes.

LEGISLATURE OF OHIO.

2d sess. 41st Cong., J. of S., 523.] APRIL 20, 1870.

On motion by Mr. Davis,

Ordered, That the privilege of the floor of the Senate Chamber for this day be extended to the officers and members of the legislature of the State of Ohio, now on a visit to the national capital.

[Cong. Globe, 2d sess. 41st Cong., 2830.]

KING OF THE HAWAIIAN ISLANDS.

2d sess. 43d Cong., J. of S., 42.] DECEMBER 14, 1874.

Mr. Cameron submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That a joint committee of two from the Senate and three from the House of Representatives, be appointed by the presiding officers of the respective Houses to take measures for the

proper notice of the presence at the Capital of His Majesty, Kalakaua, King of the Hawaiian Islands;

And

The Vice-President appointed Mr. Cameron and Mr. McCreery members of the committee on the part of the Senate.

[Cong. Rec., 2d sess. 43d Cong., 6-8]

Ib., 43.]

A message from the House of Representatives, by Mr. McPherson, its Clerk.

* * * * * * *

The House of Representatives has concurred in the resolution of the Senate to appoint a joint committee to take measures for the proper notice of the presence at the Capital of His Majesty, Kalakaua, King of the Hawaiian Islands, and has appointed Mr. Orth, Mr. E. Rockwood Hoar, and Mr. Cox members of the committee on its part.

[Cong. Rec., ib., 69.]

Ib., 54.] DECEMBER 17, 1874.

Mr. Cameron, from the joint committee appointed to consider what notice should be taken of the presence at the Capital of the King of the Hawaiian Islands, reported that they had called upon His Majesty and invited him to visit the Capitol to-morrow; that he would be present; and that they had made arrangements for his reception by the Senate and House, in the Hall of the House of Representatives, at quarter past 12 o'clock on that day.

Ib., 55.] DECEMBER 18, 1874.

On motion by Mr. Cameron,

The Senate took a recess until 1 o'clock p. m.

[Cong. Rec., ib., 117.]

GEORGE BANCROFT.

3d sess. 45th Cong., J. of S., 95.] JANUARY 8, 1879.

Mr. Thurman submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Rules are hereby instructed to inquire whether the rules shall not be so amended as to admit to the privileges of the floor the ex-cabinet minister whose appointment was earliest in the date of those now living.

[Cong. Rec., 3d sess. 45th Cong., 370. There was no discussion.]

Ib., 123.] JANUARY 16, 1879.

Mr. Blaine, from the Committee on Rules, to whom was referred the resolution submitted by Mr. Thurman, January 8, 1879, to amend the rules so as to admit to the privileges of the floor the ex-cabinet minister whose appointment was earliest in date of those now living, reported the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Hon. George Bancroft be admitted to the privileges of the floor of the Senate.

[Cong. Rec., 3d sess. 45th Cong., 482. There was no discussion.]

WINFIELD S. HANCOCK.

3d sess. 46th Cong., J. of S., 412.] MARCH 5, 1881.

Mr. Hoar submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Winfield Scott Hancock be entitled to the privileges of the floor of the Senate during his stay in Washington.

EMINENT CITIZENS.

1st sess. 48th Cong., J. of S., 297.] FEBRUARY 12, 1884.

[A resolution was referred to the Committee on Rules.]

That the President of the Senate shall have authority to admit to the floor of the Senate, on request of Senators, eminent citizens from the several States and Territories when it can be done without inconvenience to the Senate in the transaction of business. (No discussion.)

[March 25, 1884, the committee were discharged from further consideration of the resolution (Ib., 462)].

[Indefinitely postponed. Cong. Rec., 1st sess. 48th Cong., 2236.]

WITNESSES.

COMPULSORY ATTENDANCE.

The power of each House of Congress to summon witnesses and to compel them to testify in some cases has never been doubted. That the power is not unlimited, however, may be considered now well established. The existence of this power was taken for granted until 1857, when John W. Simonton refused to testify before a committee of the House. In consequence of this refusal a statute was passed January 24, 1857, to provide for the punishment of witnesses refusing to obey summons or to answer questions put them. There have been several cases in which witnesses have failed to appear or have refused to answer, but in nearly every case, when brought to the bar, they have given satisfactory excuses and have complied with the demand of the House before which they were summoned. In the case of Hallet Kilbourn, who refused to answer certain questions put him by a committee of the House, the Supreme Court of the United States discharged the prisoner on the ground that the committee had no power to make the inquiry sought, and that therefore the refusal was no contempt.

STATUTORY PROVISIONS.

Rev. Stat. U. S., sec. 101.]

The President of the Senate, the Speaker of the House of Representatives, or a chairman of a committee of the whole or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination. (Stat. May 3, 1798, ch. 36, sec. 1, 1 Stat., 554; Stat. Feb. 8, 1817, ch. 10, 3 Stat., 345.)

Rev. Stat. U. S., sec. 102.]

Every person who, having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House or any committee of either House of Congress, wilfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in the common jail for not less than one month nor more than twelve months. (Stat. January 24, 1857, ch. 19, sec. 1, 11 Stat., 155.)

Rev. Stat. U. S., sec. 103.]

No witness is privileged to refuse to testify to any fact or to produce any paper respecting which he shall be examined by either House of Congress or by any committee of either House upon the ground that his testimony may tend to disgrace him or otherwise render him infamous. (Stat. January 24, 1862, ch. 11, 12 Stat., 333.)

Rev. Stat., U. S., sec. 104.]

Whenever a witness, summoned as mentioned in ss. 102, fails to testify, and the facts are reported to either House, the President of the Senate, or the Speaker of the House, as the case may be, shall certify to the fact under the seal of the Senate or House to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action. (Stat. January 24, 1857, ch. 19, sec. 3, 11 Stat., 156).

Rev. Stat. U. S., sec. 859.]

No testimony given by a witness before either House or before any committee of either House of Congress shall be used in evidence in any criminal proceeding against him in any court except in a prosecution for perjury committed in giving such testimony. (Stat. January 24, 1857, ch. 19, sec. 2, 11 Stat., 156; Stat. January 24, 1862, ch. 11, 12 Stat., 333.)

Stat. 1884, c. 123; 23 Stat. 60.]

***Be it enacted, &c.*, That any member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a member or any committee thereof.**

JOHN W. SIMONTON.

John W. Simonton, a witness before a select committee of the House of Representatives appointed to investigate charges that members of the House had entered into corrupt combinations for the purpose of influencing legislation, refused to state what members had approached him to procure money for their votes. He was arrested by order of the House and imprisoned. Subsequently he made satisfactory answers to the committee and was discharged from custody.

3d sess. 34th Cong., J. of H., 269.] JANUARY 21, 1857.

Mr. Orr, from the select committee on certain alleged corrupt combinations, submitted the following report, viz:

The select committee appointed to investigate charges that members of the House had entered into corrupt combinations for the purpose of passing and of preventing the passage of certain measures during the present Congress, respectfully submit the following special report:

That during the progress of their investigation they have summoned as a witness J. W. Simonton, the correspondent of the New York Times; that, among others, the following question was propounded to him: "You state that certain members have approached you and have desired to know if they could not, through you, procure money for their votes upon certain bills. Will you state who these members were?"

And that said Simonton made thereto the following response: "I can not, without a violation of confidence, than which I would rather suffer anything."

In response to other questions of similar import, he said: "Two have made them direct; others have indicated to me a desire to talk with me upon these subjects, and I have warded it off, not giving them an opportunity to make an explicit proposition."

To the question, "What do I understand you to mean when you say these communications were made direct?"

Simonton replied, "I mean that, after having obtained my promise of secrecy in regard to them, they have said to me that certain measures which are pending before Congress ought to pay; that the parties interested in them had the means to pay; that they individually needed money, and desired me specifically to arrange the matter in such way that if the measures passed they should receive pecuniary compensation."

The committee were impressed with the materiality of the testimony withheld by the witness, as it embraced the letter and spirit of the inquiry directed by the House to be made, but were anxious to avoid any controversy with the witness. They consequently waived the interrogatory that day to give the witness time for reflection on the consequences of his refusal, and to afford him an opportunity look into the law and the practice of the House in such cases, notifying him that he would on some subsequent day be recalled. That was the 15th of January instant. On Tuesday, the 20th instant, the said J. W. Simonton was recalled, and the identical question first referred to was again propounded, after due notice to him that if he declined, the committee would feel constrained to report his declination to the House, and ask that body to enforce all its powers in the premises to compel a full and complete response. To that interrogatory he made the following reply, and we give it in full, that no injustice may be done to Simonton in this report. He said:

"Before stating the determination to which I have come on this subject, I desire to say, that I do not dispute the power of the committee, and I have not heretofore declined to answer that question upon any such ground. I have all respect for the committee and the House. I do not decline in order to screen the members; my declination was based upon my own convictions of duty. Since I was last before the committee, in deference to their judgment and wishes, I have examined the case of Anderson *vs.* Dunn, to which they referred me, and have considered very fully what I ought to do in view of that decision, as well as in view of other considerations. The result of my deliberation upon the subject has been to confirm me in the opinion that, whatever penalty I may suffer, I can not answer that question. I beg the committee to understand that I have no other motive whatever in declining but the simple one that I have stated before—that I do not see how I can answer it without a dishonorable breach of confidence. The answer to the question can by no possibility be supposed to reflect discredit on myself, and I presume that my statement of that motive is corroborated by the facts as they appear before the committee. I must insist upon declining to answer that question."

The House will perceive that the foregoing statement shows the materiality of the testimony, and the duty of the committee to insist upon its disclosure. It shows the settled and deliberate purpose of the witness to withhold such testimony rightfully and properly demanded, and the absolute necessity for the House to interpose, with promptitude and firmness, its authority, if it intended to expose and punish corruption which may exist among its members by ordering the investigation your committee have been pursuing. It is due to the dignity and reputation of the American Congress to purge itself of such unworthy members, if they have thus shamelessly prostituted their high and honored positions to such base purposes. The country has the right to know who have betrayed the trusts confided to them by their constituents. The honest men of the House should aid, by the exercise of all the powers with which they are vested, to secure the names of the supposed guilty parties, and thereby shield the general reputation of the body, as well as their own characters, from unjust and improper imputation and suspicion.

The committee consider it unnecessary to enter into an elaborate argument to establish the power of the House in this case. The summons issued under the hand of the Speaker, and was tested by the Clerk of the House; and the contumacy of the witness is a contempt of that authority. If there is doubt whether this authorizes the arrest of the party in contempt, and his confinement until the contempt is purged, besides the right to inflict other punishment afterwards, it seems to your committee that none will question the authority of the House when they recur to the satute book. By an act passed May 3, 1798 (1 United States Statutes, 554), authority is given to the President of the Senate, the Speaker of the House of Representatives, a chairman of the Committee of the Whole, or *a chairman of a select committee* of either House, to administer oaths to witnesses in *any case under their examination*, and willful, absolute, and false swearing before either is declared perjury, and is punishable as such. Here is express authority to swear witnesses; and false swearing is punishable as perjury. Is it, then, no contempt of the authority of this House (and the committee are acting as and for the House in this investigation) for a witness to refuse to testify to material facts within his knowledge?

The committee concur unanimously in the opinion that the House is clothed with ample power to order the party into custody, there to remain until released by the same authority or upon the expiration of the present Congress. The committee recommend the adoption of the following resolution:

"*Resolved*, That the Speaker issue his warrant, directed to the Sergeant-at-Arms, commanding him (the said Sergeant-at-Arms) to take into custody the body of the said James W. Simonton, wherever to be found, and the same forthwith to have before the said House, at the bar thereof, to answer as for a contempt of the authority of this House"—accompanied by a bill (H. R. 757) more effectually to enforce the attendance of witnesses on the summons of either House of Congress, and to compel them to discover testimony.

The Speaker having stated the question to be first on agreeing to the said resolution,

Mr. Orr moved the previous question; which was seconded and the main question ordered and put, viz: Will the House agree to the said resolution?

And it was decided in the affirmative—yeas 164, nays 16.

[The names are omitted.]

So it was

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms, commanding him (the said Sergeant-at-Arms) to take into custody the body of the said James W. Simonton, wherever to be found, and the same forthwith to have before the said House, at the bar thereof, to answer as for a contempt of the authority of this House.

Mr. Orr moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

A warrant, pursuant to the said resolution, was accordingly prepared, signed by the Speaker, under the seal of the House, attested by the Clerk, and delivered to William G. Flood, clerk of the Sergeant-at-Arms.

Subsequently,

Mr. Orr submitted the following resolution; which was read, considered, and agreed to, viz:

Resolved, That in the absence of A. J. Glossbrenner, Sergeant-at-Arms, on the business of the House, it is ordered that William G. Flood, clerk of the Sergeant-at-Arms, be authorized and directed to execute the orders of the House directed to the Sergeant-at-Arms, during the absence of the said Sergeant-at-Arms.

The said bill (H. R. 757) more effectually to enforce the attendance of witnesses on the summons of either House of Congress, and to compel them to discover testimony, was then read a first and second time.

Pending the question on its engrossment,

Mr. Orr moved to amend the same by adding at the end of the second section, the following, viz:

"Provided, That nothing in this act contained shall exempt a witness from prosecution and punishment for perjury committed by him in giving his testimony when required as aforesaid, or for forgery committed by him of any matter he may produce."

Pending which,

After debate,

Mr. Stanton moved that the said bill be recommitted to the said committee and printed.

Pending which,

Mr. Humphrey Marshall moved that it be referred to the Committee on the Judiciary.

Pending which,

William G. Flood, clerk of the Sergeant-at-Arms, appeared at the bar of the House, and reported that he had executed the warrant of the Speaker, issued this day, for the arrest of James W. Simonton, and that he had the body of the said Simonton then at the bar of the House.

Mr. H. Winter Davis submitted a resolution, which he subsequently modified to read as follows, viz:

Resolved, That the Speaker do read to the person in custody the proceedings of the House touching the alleged contempt of the prisoner, and do call on him to show cause why he should not be committed for his refusal to answer the questions propounded to him by the select committee, and that he have leave to be heard now, or to-morrow at 1 o'clock, and that he have the aid of counsel, if he desires it, and that, in the mean time, he remain in the custody of the Sergeant-at-Arms.

Pending which,

After debate,

Mr. Trippe submitted an amendment, which he subsequently modified so as to read as follows, viz:

That the Speaker do forthwith inform J. W. Simonton of the charge upon which he has been arrested, and propound to him the question: Are you ready to show cause why you should not be further proceeded against for the said alleged contempt; and do you desire to be heard in person or by counsel, now or at what time?

After debate,

Mr. H. Winter Davis moved the previous question; which was seconded and the main question ordered; and under the operation thereof, the said amendment to the resolution and the said resolutions as amended were severally agreed to.

So it was

Resolved, That the Speaker do forthwith inform J. W. Simonton of the charge upon which he has been arrested, and propound to him the question: Are you ready to show cause why you should not be further proceeded against for the said alleged contempt; and do you desire to be heard in person or by counsel, now or at what time?"

The said J. W. Simonton was thereupon arraigned,

When

The Speaker addressed him, as follows:

"James W. Simonton, you have been arrested by the order of the House, and now stand at its bar charged with an alleged contempt of its authority in refusing to answer questions propounded to you by the select committee appointed to make investigations in relation to certain charges made against the honor and character of the House. The report of the committee, upon which the arrest has been made, will be read to you."

The said report having been read,

The Speaker resumed: "The resolution which has been read to you has been adopted by the House; and in virtue thereof you have been arrested and now stand at the bar charged with the offense named. In obedience to the instruction of the House, I now put to you the following interrogatories: Are you ready to show cause why you should not be further proceeded against for the said alleged contempt; and do you desire to be heard in person or by counsel, now or at what time?"

The said J. W. Simonton having signified his desire to answer orally,

The Speaker propounded the question to the House: "Shall he have leave to answer orally?"

And it was decided in the affirmative.

Mr. Simonton thereupon addressed the House at some length, concluding with the request that he might be heard further hereafter, by counsel.

Mr. Clingman submitted a preamble and resolution, which he subsequently modified to read as follows, viz:

Whereas J. W. Simonton has failed satisfactorily to answer the questions put to

him by the order of the House, and has not purged himself of the contempt with which he stands charged:

Resolved, That the Sergeant-at-Arms hold the said Simonton in custody, and place him in close confinement in the common jail in this city until he shall signify his willingness to answer, and does answer, the questions propounded him by the committee; and for his confinement this resolution shall be sufficient warrant.

Pending which,

After debate,

Mr. Orr submitted the following amendment in the nature of a substitute thereof, viz:

J. W. Simonton having appeared at the bar of the House, according to its order, and the cause assigned for the said contempt being insufficient: Therefore,

Resolved, That the said J. W. Simonton be continued in close custody by the Sergeant-at-Arms or, in his absence, by Mr. William G. Flood, during the balance of this session, or until discharged by the further order of the House, to be taken when he shall have purged the contempt upon which he was arrested, by testifying before said committee.

Pending which,

Mr. Thomas L. Harris moved the previous question; which was seconded, and the main question ordered to be put.

Mr. Sneed moved, at 4 o'clock p. m., that the House adjourn; which motion was disagreed to.

The question was then put,

Will the House agree to the said amendment?

And it was decided in the affirmative, { Yeas ..... 120 / Nays 71

So the amendment was agreed to.

The question then recurred on agreeing to the said preamble and resolution as amended.

Pending which,

Mr. Walbridge moved, at 4 o'clock and 25 minutes p. m., that the House adjourn; which motion was disagreed to.

The question was then put,

Will the House agree to the said premable and resolution as amended?

And it was decided in the affirmative, { Yeas ..... 136 / Nays 23

The yeas and nays being desired by one-fifth of the members present.

So the preamble and resolution was agreed to, as follows, viz:

J. W. Simonton having appeared at the bar of the House, according to its order, and the cause assigned for the said contempt being insufficient: Therefore,

Resolved, That the said J. W. Simonton be continued in close custody by the Sergeant-at-Arms, or, in his absence, by William G. Flood, during the balance of this session, or until discharged by the further order of the House, to be taken when he shall have purged the contempt upon which he was arrested, by testifying before said committee.

Mr. Orr moved that the vote by which the said preamble and resolution were agreed to be reconsidered, and also moved that the motion to reconsider be laid on the table.

Pending which,

On motion of Mr. Metcher, at 4 o'clock and 47 minutes p. m., the House adjourned until to-morrow, at 12 o'clock m.

[Cong. Globe, 3d sess. 34th Cong., 402–413.]

Ib., 280.] JANUARY 22, 1857.

The Speaker having stated as the business first in order the motion submitted by Mr. Orr, and pending when the House adjourned yesterday, to lay upon the table the motion to reconsider the vote by which the following preamble and resolution were agreed to, viz:

J. W. Simonton having appeared at the bar of the House, according to its order, and the cause assigned for the said contempt being insufficient: Therefore,

Resolved, That the said J. W. Simonton be continued in close custody by the Sergeant-at-Arms, or, in his absence, by Mr. William G. Flood, during the balance of this session, or until discharged by the further order of the House, to be taken when he shall have purged the contempt upon which he was arrested, by testifying before said committee.

The question was put,

Shall the said motion to reconsider be laid on the table?

And it was decided in the affirmative, { Yeas ..... 115 / Nays 78

[The names are omitted.]

So the motion to reconsider was laid on the table.

[A warrant, pursuant to the said resolution, was accordingly prepared, signed by the Speaker under the seal of the House, attested by the Clerk, and delivered to William G. Flood, clerk of the Sergeant-at-Arms.

In consequence of the refusal of Mr. Simonton to answer the questions put to him, Congress enacted statute 1857, chapter 19 (*v. supra* p. 45). The bill was reported by the select committee before whom Simonton refused to testify, January 21, 1857, and passed the next day by vote, 183 to 12. [Cong. Globe, 3d sess. 34th Cong., 403-413, 426-433.] It was immediately sent to the Senate, where it was referred to the Committee on the Judiciary, and was reported back by that committee the same day. [Cong. Globe, ib., 425-426], but went over under objection. The following day the bill was taken up in the Senate, and after debate passed—46 to 3. [Cong. Globe, ib., 434-445.] It was signed by the President, and became law January 24.]

Ib., 338.] FEBRUARY 2, 1857.

Mr. Kelsey, from the select committee on certain alleged corrupt combinations, reported the following resolution, which was read, considered, and under the operation of the previous question, agreed to, viz:

Resolved, That the Sergeant-at-Arms of this House be, and he is hereby, instructed to bring James W. Simonton, now in his custody, by order of the House, before the select committee appointed on the 9th ultimo, to answer, on the summons of the Speaker, such questions as may be propounded to him touching the subject-matter of said investigation by said committee.

Mr. Kelsey moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Ib., 384.] FEBRUARY 9, 1857.

Mr. Kelsey, from the select committee on certain alleged corrupt combinations, submitted a special report, accompanied by the following resolution, which was read, considered, and agreed to, viz:

Resolved, That James W. Simonton, now in custody of the Sergeant-at-Arms of this House, be discharged.

Mr. Kelsey moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table, which latter motion was agreed to.

Ib., 566.] FEBRUARY 28, 1857.

The House then proceeded, as the business next in order, to the consideration of the general report of the said committee, the pending question being on the following resolution, reported from the said committee, viz:

Resolved, That James W. Simonton be expelled from the floor of this House as a reporter.

The same having been read,

Mr. Sage moved to amend the resolution by inserting after "*Simonton*" the name of "*F. F. C. Triplett*," and to strike out the words "*a reporter*" and insert in lieu thereof the word "*reporters*."

Pending which,

Mr. Kelsey moved the previous question, which was seconded and the main question ordered, and under the operation thereof the said amendment was agreed to.

Mr. Burnett moved that the vote last taken be reconsidered; which notion was disagreed to.

The resolution as amended was then agreed to.

So it was

Resolved, That James W. Simonton and F. F. C. Triplett be expelled from the floor of this House as reporters.

Mr. Kelsey moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

JOSEPH L. CHESTER.

Mr. Chester failed to appear before a select committee of the House in response to summons. He was arrested and brought to the bar. Mr. Chester, by sworn answer, disclaimed any disrespect to the House, and expressed his willingness to answer any questions put to him. Whereupon he was discharged.

3d sess. 34th Cong., J. of H., 241.] JANUARY 16, 1857.

Mr. Kelsey, as a question of privilege, from the select committee on certain alleged corrupt combinations, reported the following preamble and resolution, viz:

Whereas Joseph L. Chester has been duly summoned to appear and testify before a committee of this House, appointed in pursuance of a resolution passed on the 9th instant, to investigate certain charges of corrupt combinations of members of this House for the purpose of passing and of preventing the passage of certain measures during the present Congress; and

Whereas the said Joseph L. Chester has neglected to appear before said committee pursuant to said summons: Therefore—

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms, commanding him, the said Sergeant-at-Arms, to take into custody the body of the said Joseph L. Chester, wherever to be found, and the same forthwith to have before the said House, at the bar thereof, to answer as for a contempt of the authority of this House.

The same having been read, together with the said summons and return thereon,

Mr. Kelsey moved the previous question; which was seconded and the main question ordered to be put.

Mr. George W. Jones moved that the said preamble and resolution be laid on the table.

Pending which,

Mr. McMullin moved, at 3 o'clock and 25 minutes p. m., that the House adjourn; which motion was disagreed to.

The question then recurred on the motion of Mr. George W. Jones, and, being put,

It was decided in the negative.

The question was then put, Will the House agree to the said preamble and resolution?

And it was decided in the affirmative.

So that said preamble and resolution were agreed to.

Mr. Kelsey moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

A warrant pursuant to the said resolution was accordingly prepared, signed by the Speaker under the seal of the House, attested by the Clerk, and delivered to the Sergeant-at-Arms.

And then,

On motion of Mr. Keitt, at 3 o'clock and 35 minutes p. m., the House adjourned until to-morrow, at 12 o'clock m.

[Cong. Globe, 3d sess. 34th Cong., 356.]

Ib., 291.] JANUARY 24, 1857.

The Sergeant-at-Arms appeared at the bar of the House and reported that, in pursuance of the warrant of the Speaker of the 16th instant, he had arrested Joseph L. Chester, and had him then at the bar of the House.

Mr. Kelsey submited the following resolution, which was read, considered, and, under the operation of the previous question, agreed to, viz:

Resolved, That the Speaker propound to Joseph L. Chester the following questions, viz:

What excuse have you for not appearing before the select committee of this House, pursuant to the summons served on you on the 14th instant?

Are you ready to appear before said committee and answer to such proper questions as shall be put to you by said committee?

Mr. Letcher moved that the respondent be required to answer in writing, and under oath.

Pending which,

After debate,

Mr. Stephens moved the previous question; which was seconded and the main question ordered, and under the operation thereof the said motion was agreed to.

The said Chester was then conducted from the bar by the Sergeant-at-Arms.

[Cong. Globe, ib., 458.]

Ib., 302–303.] JANUARY 26, 1857.

The Sergeant-at-Arms appeared at the bar, and announced that Joseph L. Chester, heretofore arrested under the warrant of the Speaker, was now ready to answer the questions which the House had directed should be propounded to him.

The said Chester was thereupon arraigned, and the following questions put to him by the Speaker, viz:

What excuse have you for not appearing before the select committee of this House, pursuant to the summons served on you on the 14th instant?

Are you now ready to appear before said committee and answer to such proper questions as shall be put to you by said committee?

When,

The said Chester handed to the Clerk, as his answer to the said interrogatories, a paper, which was read and is as follows, viz:

To the Honorable the Speaker of the House of Representatives of the United States:

To the first interrogatory propounded to me under the resolution of the House of the 24th instant, I respectfully answer: That in departing from this city the day after having been subpœnaed to appear before the committee, I neither entertained nor intended any disrespect whatever to the committee or to the House; but having

made arrangements, before the service of the subpœna, to leave for my home in Philadelphia on private business of emergency, after having been absent for a period of six weeks, I could not, without great detriment to my own affairs, postpone my visit. I had every reason to believe that the committee would yet be in session for some days, and not having read the subpœna carefully, nor observed the clause requiring me not to depart without leave, and presuming that my appearance before the committee on Monday morning, at farthest, would be in sufficient time for their purpose, I left, announcing to Russell F. Frisby, jr., with whom I board, my intention to return the next night, if possible, so as to be before the committee even on Saturday. Indeed, I did not imagine, under the exigencies of my own private affairs, that it was absolutely necessary that I should appear before the committee on the exact day; and had not the recent storm intervened, I should have been, of my own accord, before the committee on Monday last, without the services of the Sergeant-at-Arms. That officer, I am sure, will bear me witness that I evinced no disposition, either by habeas corpus or otherwise, to evade the arrest or a return to Washington. So occupied was I with my business at home that I did not even read or hear of the proceedings of the House in my case until late on Saturday, the 17th, when I went quietly to my home and there remained with my family, awaiting the arrival of your officer. From all which I trust that your honorable body will attribute to me no disrespect nor disposition to avoid its mandate.

To the second interrogatory I answer that I am entirely ready and willing so to appear and answer.

JOSEPH L. CHESTER.

CITY OF WASHINGTON, D. C., *ss:*

Joseph L. Chester, of the city of Philadelphia, being duly sworn, doth declare and say that the facts set forth in the foregoing answer are true to the best of his knowledge and belief.

JOSEPH L. CHESTER.

Sworn and subscribed to, this 26th day of January, A. D. 1857, before me.

Z. K. OFFUTT, *J. P.*

And then,

On motion of Mr. Florence, it was

Ordered, That inasmuch as the answers of Joseph L. Chester are respectful and sufficient, he be discharged from custody.

[Cong. Globe, ib., 475.]

THADDEUS HYATT.

Thaddeus Hyatt was summoned to appear and testify before the select committee of the Senate "on the subject of the insurrection at Harper's Ferry," and, failing to obey, was arrested under a warrant issued by the Vice-President to the Sergeant-at-Arms, and was brought to the bar of the Senate. Not satisfying the Senate of his willingness to answer the questions of the committee, he was committed to the custody of the Sergeant-at-Arms. Subsequently his answer was decided to be satisfactory and he was given the same liberty as other witnesses summoned by the committee.

1st sess. 36th Cong., J. of S., 178.] FEBRUARY 21, 1860.

Mr. Mason, from the select committee appointed to investigate the facts in relation to the recent invasion of the armory and arsenal at Harper's Ferry by a band of armed men, submitted the following resolution:

Whereas Thaddeus Hyatt, of the city of New York, was, on the 24th day of January, A. D. 1860, duly summoned to appear before the select committee of the Senate appointed "to inquire into the facts attending the late invasion and seizure of the armory and arsenal of the United States at Harper's Ferry in Virginia, by a band of armed men," and has failed and refused to appear before said committee pursuant to said summons: Therefore,

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms, commanding him to take into his custody the body of the said Thaddeus Hyatt, wherever to be found, and to have the same forthwith before the bar of the Senate to answer as for a contempt of the authority of the Senate.

The Senate proceeded to consider the said resolution by unanimous consent; and,

On the question to agree thereto,

It was determined in the affirmative, { Yeas ..... 43 / Nays 12

[The names are omitted.]

[Cong. Globe, 1st sess. 36th Cong., 848-850.]

Ib., 219.] MARCH 6, 1860.

The Sergeant-at-Arms appeared at the bar of the Senate and announced that he had executed the warrant of the President of the Senate, issued on the 21st day of February last, for the arrest of Thaddeus Hyatt, and that the said Thaddeus Hyatt was now in his custody and ready to appear at the bar of the Senate.

Thereupon,

Mr. Mason submitted the following resolution:

Resolved, That Thaddeus Hyatt, of the city of New York, now in custody of the Sergeant-at-Arms on an attachment for contempt in refusing obedience to the summons requiring him to appear and testify before a committee of the Senate, be now arraigned at the bar of the Senate and that the President of the Senate propound to him the following interrogatories:

First. What excuse have you for not appearing before the select committee of the Senate in pursuance of the summons served on you on the 24th day of January, 1860?

Second. Are you now ready to appear before said committee and answer such proper questions as shall be put to you by said committee?

And that the said Thaddeus Hyatt be required to answer said questions in writing and under oath.

The Senate proceeded to consider the resolution.

On motion by Mr. Hale to amend the resolution by striking out in the first interrogatory the word "excuse," and in lieu thereof inserting the word *reason*,

It was determined in the negative, { Yeas ..... 12 / Nays 42

[The names are omitted.]

On motion by Mr. Crittenden to amend the resolution by striking out in the first interrogatory the words, "What excuse have you for not appearing?" and in lieu thereof inserting, *Why did you not appear?*

It was determined in the negative.

On the question to agree to the resolution,

It was determined in the affirmative, { Yeas ..... 49 / Nays 6

[The names are omitted.]

So the resolution was agreed to; and

The said Thaddeus Hyatt was thereupon arraigned at the bar of the Senate, and the interrogatories, as directed by the Senate, were propounded to him by the Vice-President.

Mr. Mason submitted the following motion, which was considered and agreed to:

Ordered, That Thaddeus Hyatt be remanded to the custody of the Sergeant-at-Arms and that he have until 2 o'clock on Friday next, the 9th instant, to make answer to the questions directed to be propounded to him by the President of the Senate.

The said Thaddeus Hyatt was thereupon remanded to the custody of the Sergeant-at-Arms, to appear at the bar of the Senate on Friday next, to make answer to the interrogatories directed to be propounded to him by the Senate.

[Cong. Globe, ib., 999-1000.]

Ib., 338.] MARCH 9, 1860.

The Sergeant at-Arms at 2 o'clock brought Thaddeus Hyatt to the bar of the Senate; and

The said Thaddeus Hyatt, being asked by the Vice-President if he was prepared to answer the interrogatories directed to be propounded to him by the Senate, submitted a paper in writing and under oath.

A motion being made by Mr. Benjamin to refer the paper to the select committee appointed to investigate the matter of the recent invasion at Harper's Ferry.

Mr. Foster called for the reading of the paper; and

The reading of the paper having been objected to by Mr. Davis,

The Vice-President submitted the question to the Senate, Shall the paper be read? and

It was determined in the affirmative, { Yeas ..... 40 / Nays 12

[The names are omitted.]

The paper having been read,

Mr. Benjamin withdrew his motion.

On motion by Mr. Mason,

Ordered, That Thaddeus Hyatt be remanded to the custody of the Segeant-at-Arms, there to remain until the further order of the Senate.

Mr. Mason submitted the following resolutions; which were read:

Whereas Thaddeus Hyatt has failed satisfactorily to answer the questions propounded to him by order of the Senate, and has not purged himself of the contempt with which he stands charged: Therefore, be it

Resolved, That the said Thaddeus Hyatt be committed by the Sergeant-at-Arms to the common jail of the District of Columbia, to be kept in close custody until he shall signify his willingness to answer the questions propounded to him by the Senate, and all other legal and proper questions that may be propounded to him by the select committee; and for the commitment and detention of the said Thaddeus Hyatt this resolution shall be a sufficient warrant.

Resolved, That whenever the officer having the said Thaddeus Hyatt in custody

shall be informed by said Hyatt that he is ready and willing to answer the proper and legal questions that may be propounded to him by said committee, it shall be the duty of such officer to deliver the said Thaddeus Hyatt over to the Sergeant-at-Arms of the Senate, whose duty it shall be to take the said Hyatt immediately before the committee, before whom he was summoned to appear for examination, and to hold him in custody, subject to the further order of the Senate.

The Senate proceeded to consider the resolutions; and

On motion by Mr. Crittenden,

The Senate adjourned.

[For the paper referred to see Cong. Globe, 1st sess. 36th Cong., 1077–1085.]

Ib., 241.] MARCH 12, 1860.

On motion by Mr. Mason,

Ordered, That the Sergeant-at-Arms be directed to bring Thaddeus Hyatt to the bar of the Senate;

Whereupon,

The said Thaddeus Hyatt was brought by the Sergeant-at-Arms to the bar of the Senate.

Mr. Mason having obtained leave of the Senate to withdraw the resolutions submitted the 9th instant, submitted the following resolutions, which were read:

Whereas Thaddeus Hyatt, appearing at the bar of the Senate in custody of the Sergeant-at-Arms, pursuant to the resolution of the Senate of the 6th of March, instant, was required by order of the Senate then made to answer the following questions, under oath and in writing:

"First. What excuse have you for not appearing before the select committee of the Senate, in pursuance of the summons served on you on the 24th day of January, 1860?

"Second. Are you now ready to appear before said committee and answer such proper questions as shall be put to you by said committee?"

Time to answer the same being given until the 9th day of March, following: and

Whereas, on the said last named day, the said Thaddeus Hyatt, again appearing in like custody at the bar of the Senate, presented a paper accompanied by an affidavit, which he stated was his answer to said questions, and it appearing upon examination thereof that said Thaddeus Hyatt has assigned no sufficient excuse in answer to the question first aforesaid, and, in answer to said second question, has not declared himself ready to appear and answer before said committee of the Senate as set forth in said question, and has not purged himself of the contempt with which he stands charged: Therefore,

Be it resolved, That the said Thaddeus Hyatt be committed by the Sergeant-at-Arms to the common jail of the District of Columbia, to be kept in close custody until he shall signify his willingness to answer the questions propounded to him by the Senate; and for the commitment and detention of the said Thaddeus Hyatt this resolution shall be a sufficient warrant.

Resolved, That whenever the officer having the said Thaddeus Hyatt in custody shall be informed by said Hyatt that he is ready and willing to answer the questions aforesaid, it shall be the duty of such officer to deliver the said Thaddeus Hyatt over to the Sergeant-at-Arms of the Senate, whose duty it shall be again to bring him before the bar of the Senate when so directed by the Senate.

The Senate proceeded to consider the resolutions; and,

After debate,

On the question to agree to the resolutions,

It was determined in the affirmative, { Yeas ..... 44 / Nays 10

[The names are omitted.]

So the resolutions were agreed to; and

A copy of the said resolutions, under the hand of the Vice-President and the seal of the Senate, and attested by the Secretary, was thereupon issued to the Sergeant-at-Arms.

[Cong. Globe, ib., 1100–1109.]

Ib., 528.] MAY 28, 1860.

Mr. Dixon submitted the following resolution for consideration:

Resolved, That in the execution of the order of the Senate for the imprisonment of Thaddeus Hyatt, the Sergeant-at-Arms be authorized and directed to remove said Hyatt from the common jail in this city and permit him to pass, without restraint, within the limits of the city of Washington.

Ib., 560.] JUNE 5, 1860.

Mr. Sumner presented the memorial of Lewis Tappan and others, citizens of the State of New York, praying that Thaddeus Hyatt be removed from the common jail to a comfortable and well-ventilated residence, and that he be allowed opportunities

of air and exercise; which was referred to the select committee appointed to investigate the facts of the late invasion at Harper's Ferry.

Mr. Sumner presented a petition of citizens of Massachusetts, of African descent, praying the Senate to suspend the labors of the select committee appointed to investigate the facts of the late invasion and seizure of public property at Harper's Ferry, and that all persons now in custody under the proceedings of said committee be discharged; which was referred to the select committee appointed to investigate the facts of the late invasion at Harper's Ferry.

Ib., 640.] JUNE 13, 1860.

Mr. Sumner presented a petition of citizens of Connecticut, praying the release of Thaddeus Hyatt from imprisonment.

On motion by Mr. Sumner,

Ordered, That the petition be referred to the select committee appointed to investigate the late invasion at Harper's Ferry, in Virginia.

[Cong. Globe, ib., 2908–2909.]

Ib., 665.] JUNE 15, 1860.

On motion by Mr. Mason,

Ordered, That the select committee on the Harper's Ferry invasion be discharged from the further consideration of the petition of citizens of New York and the petition of citizens of Connecticut, praying the release of Thaddeus Hyatt from imprisonment.

Mr. Mason, from the select committee on the Harper's Ferry invasion, to whom was referred the petition of citizens of Massachusetts, of African descent, submitted a report, accompanied by the following resolution:

Resolved, That the paper purporting to be a petition from "citizens of the commonwealth of Massachusetts, of African descent," presented to the Senate by Charles Sumner, a Senator of Massachusetts, on the 5th of June, instant, and, on his motion, referred to a select committee of the Senate, be returned by the Secretary to the Senator who presented it.

Mr. Mason, from the select committee on the Harper's Ferry invasion, submitted the following motion; which was considered by unanimous consent and agreed to:

Ordered, That Thaddeus Hyatt, a witness confined in the jail of this city for refusal to appear and testify before said committee, be discharged from custody, and that a copy of this order be delivered to the jailer by the Sergeant-at-Arms as his warrant for discharging said prisoner.

[For the report see Cong. Globe, ib., 3006. The witness was discharged because the select committee had been discharged.]

F. B. SANBORN ET AL.

F. B. Sanborn, of Concord, Mass., John Brown, jr., of Ashtabula County, Ohio, and James Redpath of Malden, Mass., being summoned to testify before the select committee of the Senate appointed to inquire into the seizure of Harpers Ferry, refused to attend. Warrants were issued to the Sergeant-at-Arms to bring them to the bar of the Senate. One witness was arrested and taken before the Senate. Sanborn was arrested, after resistance, by a deputy of the Sergeant-at-Arms, and released on habeas corpus by the supreme court of Massachusetts on the ground that the Sergeant-at-Arms could not delegate his authority. Brown could not be arrested without the employment of armed force, and the deputy therefore stated the fact in his return.

The supreme court of Massachusetts ordered the petitioner to be discharged on a writ of habeas corpus on the ground that a warrant issued to the Sergeant-at-Arms without authority to delegate the authority conferred to any other person would not justify a deputy in arresting the petitioner in accordance with its terms. (Sanborn *v.* Carlton, 15 Gray, 399.)

1st sess. 36th Cong., J. of S., 159.] FEBRUARY 15, 1860.

Mr. Mason, from the select committee appointed to investigate the facts of the recent invasion at Harper's Ferry, in Virginia, submitted the following resolution:

Whereas F. B. Sanborn, of Concord, in the State of Massachusetts; John Brown, jr., of Ashtabula County, in the State of Ohio; and James Redpath, of Malden, in State of Massachusetts, were, respectively—the said Sanborn on the 16th of January, A. D. 1860, the said Brown on the 26th day of January, A. D. 1860, and the said Redpath on the 31st day of January, A. D. 1860—duly summoned to appear before the select committee of the Senate appointed "to inquire into the facts attending the late invasion and seizure of the armory and arsenal of the United States at Harper's Ferry, in Virginia, by a band of armed men," and have severally failed and refused to appear before said committee pursuant to said respective summons: Therefore,

Resolved, That the President of the Senate issue his several warrants, directed to the Sergeant-at-Arms, commanding him to take into his custody the bodies of the said F. B. Sanborn, John Brown, jr., and James Redpath, respectively, wherever to be found, and to have the same forthwith before the bar of the Senate to answer as for a contempt of the authority of the Senate.

The Senate proceeded, by unanimous consent, to consider the resolution; and,
On the question to agree thereto,
It was determined in the affirmative, { Yeas..... 46 / Nays..... 4
[The names are omitted.]
So the resolution was agreed to.

Ib., 191. FEBRUARY 27, 1860.

Mr. Hale presented the memorial of F. B. Sanborn, denying the power of the Senate of the United States to compel the attendance of witnesses to testify before its committees, and praying to be relieved from all obligation to obey this summons to appear and testify before the select committee appointed to investigate the circumstances connected with the late invasion of Virginia at Harper's Ferry.
Ordered. That it lie on the table.
[Cong. Globe, 1st sess. 36th Cong., 887.]

Ib., 374.] APRIL 10, 1860.

Mr. Sumner presented the memorial of F. B. Sanborn, praying redress for outrages alleged to have been committed against him by Silas Carlton in executing a precept of the Senate of the United States; which was read.
On motion by Mr. Mason,
Ordered, That it lie on the table.
[The memorial may be found Cong. Globe, ib., 1626.]

Ib., 390.] APRIL 13, 1860.

Mr. Sumner presented additional papers in relation to the claim of F. B. Sanborn to redress for outrages alleged to have been committed against him by Silas Carlton in executing a precept of the Senate of the United States.
Ordered, That they lie on the table.
[The papers may be found Cong. Globe, ib., 1699.]

Ib., 398.] APRIL 16, 1860.

Mr. Mason also presented the return of Silas Carlton, who was deputed by the Sergeant-at-Arms of the Senate to execute a warrant issued by the Vice-President, by direction of the Senate, commanding him to arrest F. B. Sanborn and bring him before the bar of the Senate, to answer as for a contempt of the Senate in refusing to appear and testify before the select committee appointed to investigate the facts of the recent invasion and seizure of the United States armory at Harper's Ferry, in Virginia, by an armed band, setting forth the reasons why he has failed to make the arrest as directed by the said warrant; which was read.
On motion by Mr. Mason,
Ordered, That the return of Matthew Johnson and the return of Silas Carlton, with the accompanying papers, be referred to the Committee on the Judiciary, with instructions "to inquire and report whether any and what further proceedings may be necessary to vindicate the authority of the Senate, and to effect the arrest of the witnesses named in the warrants."
A motion was made by Mr. Sumner that the Senate take up the memorial and papers of F. B. Sanborn on the same subject, presented April 10 and April 13.
It was determined in the affirmative; and,
On motion by Mr. Sumner, to refer the memorial and papers of F. B. Sanborn to the Committee on the Judiciary,
A debate ensued; and,
Pending which [the special order of the day was called up at one o'clock.]
[For the return on the writ and debate see Cong. Globe, ib., 1698–1699.]

Ib., 401.] APRIL 17, 1860.

The Senate resumed the consideration of the motion submitted yesterday by Mr. Sumner to refer the memorial of F. B. Sanborn and the accompanying papers, presented by him the 10th and 13th instants to the Committee on the Judiciary; and
The motion was agreed to.
On motion by Mr. Hale,
Ordered, That the memorial of F. B. Sanborn, presented by him the 27th of February last, be referred to the Committee on the Judiciary.

Ib., 578.] JUNE 7, 1860.

On motion by Mr. Bayard,
Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of F. B. Sanborn, praying to be relieved from the obligation to obey the summons to appear and testify before the select committee of the Senate appointed to investigate the circumstances connected with the late invasion of the United States armory at Harper's Ferry.

On motion by Mr. Bayard,

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of F. B. Sanborn, praying redress for outrages alleged to have been committed against him by Silas Carlton in executing a precept of the Senate of the United States.

Mr. Bayard, from the Committee on the Judiciary, to whom were referred the return of Silas Carlton, a deputy of the Sergeant-at-Arms of the Senate of the United States, setting forth the reasons of his failure to execute the precept of the Senate for the arrest of F. B. Sanborn, and the return of M. Johnson, also a deputy of the Sergeant-at-Arms of the Senate of the United States, setting forth the reasons of his failure to execute the precept of the Senate for the arrest of John Brown, jr., submitted a report (No. 262) accompanied by a bill (S. 496) concerning the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House of Representatives.

The bill was read and passed to a second reading.

Ordered, That the report be printed.

2d sess. 36th Cong., J. of S., 413.] MARCH 8, 1861.

Mr. Sumner submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the papers now on the files of the Senate relating to the matter of Frank B. Sanborn be referred to the Committee on the Judiciary.

[The Senate took no further steps to compel the attendance of Mr. Sanborn, but suits were brought by Mr. Sanborn against the deputy marshal and his assistants. March 5, Mr. Mason offered a resolution to pay the actual costs of defending those suits.]

Ib., 415.] MARCH 12, 1861.

Mr. Trumbull, from the Committee on the Judiciary, to whom was referred the resolution submitted by Mr. Mason, the 5th instant, to pay such actual costs as may be incurred by Silas Carlton and others in defending suits against them for acts in executing a process of the Senate against F. B. Sanborn, and also the memorials of F. B. Sanborn, reported the resolution without amendment, and with a recommendation that it be postponed to the third Monday in December next. The Senate resumed the consideration of the resolution; and,

On motion by Mr. Trumbull,

Ordered, That the further consideration thereof be postponed until the third Monday in December next.

AARON HIGGINS.

Mr. Higgins failed to obey a summons of a committee of the House. He was accordingly arrested by order of the House and brought to the bar. In the meantime Mr. Higgins had appeared before the committee and answered the interrogatories. He was therefore discharged.

2d sess. 37th Cong., J. of H., 498.] APRIL 2, 1862.

Mr. Dawes, from the Select Committee on Government Contracts, reported the following preamble and resolution; which were read, considered, and, under the operation of the previous question, agreed to, viz:

Whereas, on the 14th day of March last, a subpœna was issued by the Speaker of this House summoning, among others, one Aaron Higgins, sometimes called Aaron A. Higgins, by the name of A. Higgins, to appear before the Select Committee on Government Contracts forthwith at the United States Hotel, in Boston, Mass., but that the said Higgins has hitherto, and still does, refuse or neglect to obey said summons: Therefore,

Resolved, That the Speaker of this House be directed to issue his writ of attachment against Aaron Higgins, of Boston, Mass., sometimes called Aaron A. Higgins, and cause him to be brought to the bar of this House to answer for his contempt in not obeying the said subpœna of said Speaker, issued March 14, 1862.

Ib., 523.] APRIL 9, 1862.

The Sergeant-at-Arms, by S. J. Johnson, his deputy, appeared at the bar with Aaron Higgins in custody, as summoned by the Speaker's warrant of the 2d instant.

The said Higgins having been arraigned, the Speaker inquired of him what excuse he had to offer for his contempt of the authority of the House in failing to obey its subpœna to appear before the Select Committee on Government Contracts; and the response of the said Higgins having been submitted and read to the House,

Mr. Dawes submitted the following preamble and resolution, viz:

Whereas Aaron Higgins, now at the bar of this House, in contempt for disobeying the subpœna of its Speaker, issued at the instance of the Committee on Government Contracts, has appeared before said committee and answered, under oath, all such interrogatories as have been put to him by their order: Therefore,

Resolved, That the Sergeant-at-Arms be directed to discharge said Higgins from custody upon payment by him of the legal fees chargeable upon the warrant upon which he has been brought to the bar of the House.

The same having been read,

Mr. Dunn moved to amend the said resolution by striking out all after the word "custody" to the end of the resolution.

After debate,

The said amendment was then agreed to.

The question was then put, Will the House agree to the said preamble and resolution as amended?

And it was decided in the affirmative.

MICHAEL C. MURPHY.

Mr. Murphy having refused to obey a subpœna, an order of the House was issued directing the Sergeant-at-Arms to arrest him.

2d sess. 37th Cong., J. of H., 947.] JUNE 27, 1862.

Mr. Bingham, as a question of privilege, from the Committee on the Judiciary, reported the following preamble and resolution; which were read, considered, and, under the operation of the previous question, agreed to, viz:

Whereas Michael C. Murphy, of the city of New York, was, on the 23d instant, duly served personally by order of this House and by its Sergeant-at-Arms with subpœna to appear and testify before the Judiciary Committee of this House, in the matter of inquiry referred to it in relation to Hon. Benjamin Wood; and whereas the said Michael C. Murphy has refused to obey the order of the House in the premises, and is in contempt of the House: Therefore

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to arrest the said Michael C. Murphy, and bring him forthwith before this House to answer for his contempt in the premises, and to subject himself to its order.

And then,

On motion of Mr. Lovejoy, at 4 o'clock and 45 minutes p. m., the House adjourned.

EDWARD E. DUNBAR.

Mr. Dunbar was summoned as a witness by the Joint Select Committee on Retrenchment. He appeared and testified but refused to give the names of certain persons who had given him information. The Sergeant-at-Arms was directed to bring him to the bar of the Senate to answer for his contempt. Under this order he was arrested but appeared before the committee and answered the questions put to him. Whereupon he was discharged by order of the Senate.

1st sess. 40th Cong., J. of S., 186.] NOVEMBER 25, 1867.

Mr. Edmunds, from the Joint Committee on Retrenchment, reported the following resolution; which was considered, by unanimous consent, and agreed to:

Whereas Edward E. Dunbar, of the city of New York, having appeared on the 11th day of October, 1867, before the Joint Select Committee on Retrenchment, raised by concurrent resolution of the two Houses, and having been sworn, and having given certain testimony touching the matters of inquiry referred to said committee, and in the course of such testimony having stated that certain material facts stated by him upon information, were communicated by him to various persons, and he having thereupon been asked and required to communicate to said committee the names of such persons, and he having thereupon in contempt of the authority of the said committee and of the two Houses of Congress, respectively, wholly refused to do so: Therefore

Resolved, That the President *pro tempore* be, and he hereby is, authorized and required to issue his warrant to the Sergeant-at-Arms of the Senate, commanding him to arrest the said Edward E. Dunbar wheresoever he may be found, and have his body at the bar of the Senate to answer for said contempt.

Ib., 190.] NOVEMBER 29, 1867.

Whereas Edward E. Dunbar, now in custody of the Sergeant-at-Arms, under an arrest upon a warrant of the President of the Senate, to answer for a contempt in refusing to answer certain interrogatories propounded to him by the Joint Committee on Retrenchment, before which he had been duly sworn as a witness, has appeared before the said committee and made answer to such interrogatories as have been put to him by its order: Therefore

Resolved, That the Sergeant-at-Arms be directed to discharge the said Edward E. Dunbar from custody, upon payment of the legal fees chargeable upon the warrant upon which he has been arrested, and that further proceedings in the matter be thereupon dispensed with.

BENJAMIN HIGDON.

Mr. Higdon refused to obey a subpœna to appear before a special committee. He was arrested, purged himself of his contempt by appearing before the committee, and was discharged.

2d sess. 37th Cong., J. of H., 210.] JANUARY 20, 1862.

Mr. Holman, from the Select Committee on Government Contracts, reported the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the Sergeant-at-Arms be directed to bring before the bar of this House Benjamin Higdon, of Cincinnati, Ohio, to answer to an alleged contempt of its authority in refusing to obey a subpœna to appear before the special committee for the investigation of Government contracts.

[Cong. Globe, 2d sess. 37th Cong., 400.]

Ib., 336.] FEBRUARY 20, 1862.

On motion of Mr. Holman, from the Select Committee on Government Contracts,

Ordered, That Benjamin Higdon be released from the service of the Speaker's warrant—heretofore issued by the order of the House for his arrest.

[Cong. Globe, ib., 909.]

SIMON STEVENS.

January 14, 1863. Mr. Stevens, who had refused to answer certain interrogatories put him by a select committee of the House before which he had been summoned, was ordered to be brought to the bar. January 16 he was discharged from arrest on payment of costs.

3d sess. 37th Cong., J. of H., 192.] JANUARY 14, 1863.

Mr. Holman, by unanimous consent, from the Select Committee on Government Contracts, submitted the following preamble and resolution, which were read, considered, and, under the operation of the previous question, agreed to, viz:

Whereas Simon Stevens, a witness subpœnaed by the select committee of the House of Representatives on Government contracts, in their examination of the facts in connection with the "terms, considerations, and profits of the labor contract for the storing, hauling, and delivery, etc., of foreign goods in the city of New York," concerning which said committee were directed by the House to make inquiries, refused to answer the following inquiries propounded to him by said committee: "How much money in the aggregate has been paid over, under the labor contract, to Mr. William Allen Butler, or to his account, or to Mr. George W. Parsons, his law partner, for account of Mr. Butler?" "You say you held the contract from May 11, 1861, until its expiration, by its own terms, September 5, 1862. State the net profits of that contract during that time:" Now, therefore,

Resolved, That the Sergeant-at-Arms be directed to bring the said Simon Stevens before the bar of this House to answer said contempt.

Ib., 202.] JANUARY 16, 1863.

On motion of Mr. Holman,

Ordered, That Simon Stevens, now in custody of the Sergeant-at-Arms, be discharged upon payment of costs.

Cong. Globe, 3d sess. 37th Cong., 370.]

MR. HOLMAN.

"Mr. Stevens having been brought to the Capitol by the Sergeant-at-Arms, has to-day appeared before the committee, and after consultation with gentlemen who would be referred to by his testimony, determined to answer the interrogations, and has done so fully to the satisfaction of the committee."

LAFAYETTE C. BAKER.

Mr. Baker was summoned to appear and testify before a committee of the House and failed to appear. By order of the House the Speaker issued his warrant July 20, 1867, to arrest Baker. November 26 Baker was discharged on payment of costs.

1st sess. 40th Cong., J. of H., 244.] JULY 20, 1867.

Mr. James F. Wilson, as a question of privilege, submitted the following preamble and resolution; which were read, considered, and agreed to, viz:

Whereas Lafayette C. Baker was, on the 2d day of July, 1867, duly summoned to appear and testify before a standing committee of this House on the Judiciary, charged with the investigation of certain allegations against the President of the United States, and has neglected to appear before said committee pursuant to said summons: Therefore

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms, commanding him to take into custody the body of said Lafayette C. Baker, wherever

to be found, and to have the same forthwith brought before the bar of the House to answer for contempt of the authority of the House in thus failing and neglecting to appear before said committee.

Ib., 270.] NOVEMBER 26, 1867.

On motion of Mr. James F. Wilson,

Ordered, That L. C. Baker, heretofore arrested under the order of the House, be discharged upon payment of costs.

[Mr. WILSON.

"I am directed by the committee to state that since that time he has appeared and testified, and they do not consider the case of sufficient importance to ask further action on the part of the House." [Cong. Globe, 1st sess. 40th Cong., 796.]

HENRY WIKOFF.

Mr. Wikoff refused to answer a question of a Committee of the House and was therefore brought to the bar by order of the House. He still refused to answer and was committed to the custody of the Sergeant-at-Arms. Mr. Wikoff thereupon appeared before the committee and answered the interrogatory put to him, and was discharged.

1st. sess. 37th Cong., J. of H., 298.] FEBRUARY 12, 1862.

Mr. Hickman, from the Committee on the Judiciary, reported the following preamble and resolution, which were read, considered, and agreed to, viz:

Whereas Henry Wikoff, a witness subpœnaed by the Committee on the Judiciary in their examination of the facts in connection with the alleged censorship over the telegraph, concerning which said committee were directed by the House to make inquiry, has stated that a portion of the substance of the message of the President of the United States, communicated to Congress on the 2d day of December last, was transmitted by telegraph through his agency to the New York Herald prior to the receipt of the said message by Congress, and has refused to state from whom he received the matter thus revealed to the public: Therefore,

Resolved, That the Sergeant-at-Arms be directed to bring the said Henry Wikoff before the bar of this House to answer said contempt.

Ib., 302–303.] FEBRUARY 12, 1862.

The Sergeant-at-Arms appeared at the bar of the House, and reported that he had executed the warrant of the Speaker, issued this day, for the arrest of Henry Wikoff, and that he had the body of the said Wikoff then at the bar of the House.

The said Wikoff having been arraigned,

The Speaker addressed him as follows:

"Henry Wikoff, you have been arrested by the order of the House, and now stand at its bar with an alleged contempt of its authority in refusing to answer a question propounded to you by the Committee on the Judiciary, which was directed to make inquiry as to an alleged censorship over the telegraph. What have you to say in answer to this charge of contempt?"

The said Henry Wikoff having responded orally, which response, on motion of Mr. Hickman, was reduced to writing and submitted to said Wikoff, and approved by him as follows:

"Nothing; but that, while hoping not to be considered wanting in any respect to the Judiciary Committee or to the House, the information which the committee demanded of me was received, such as it was, under a pledge of strict secrecy, which I felt myself bound to respect."

Mr. Hickman submitted the following preamble and resolution; which were read, considered, and, under the operation of the previous question, agreed to, viz:

Whereas Henry Wikoff, a witness subpœnaed to appear and testify before the Committee on the Judiciary in the matter of the investigation by said committee into the alleged telegraphic censorship of the press, and refusing to answer certain questions propounded to him on his examination, upon being brought before the bar of the House has failed to satisfy the House of the propriety of his refusal: Therefore,

Resolved, That the said Henry Wikoff, by reason of the premisses, is in contempt of this House, and that the Sergeant-at-Arms be directed to hold said Henry Wikoff in close custody until he shall purge himself of said contempt, or until discharged by order of the House.

Mr. Hickman moved that the vote last taken be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

And then,

On motion of Mr. Richardson, at 4 o'clock and 5 minutes p. m. the House adjourned.

[Cong. Globe, 1st sess. 37th Cong., 784.]

Ib., 310.] FEBRUARY 14, 1862.

Mr. Hickman, from the Committee on the Judiciary, reported that Henry Wikoff had answered the question propounded to him by the said committee, and had thereby purged himself of the contempt of the House for which he was held in custody.

The said Wikoff is therefore, under the terms of the resolution directing his arrest, released from custody.

[Cong. Globe, ib., 831.]

ALCAEUS B. WOLFE.

Mr. Wolfe refused to answer questions put him by a committee of the House and was accordingly ordered to be brought to the bar to answer for his contempt, and in the meantime to be kept in the custody of the Sergeant-at-Arms. Mr. Wolfe thereupon appeared before the committee, answered the questions propounded, and was accordingly discharged by the House.

1st. sess. 44th Cong., J. of H., 530.] MARCH 7, 1876.

Mr. Whitthorne, from the Committee on Naval Affairs, made a partial report, accompanied by a resolution.

The Committee on Naval Affairs, who were charged under a resolution of the House of Representatives, adopted January 14, 1876, with the duty of making inquiry into any errors, abuses, or frauds that may exist in the administration and execution of existing laws affecting the naval service, and who, by said resolution, in order to fully comprehend the workings of the various branches or Departments of the Government were authorized to make inquiries for its own guidance or information, or for the protection of the public interests, in exposing frauds or abuses of any kind that may exist in said Departments; and were also authorized by said resolution to send for persons and papers, submit, in part, the following report:

That, in pursuance of the power conferred upon them by the House, they caused one Alcaeus B. Wolfe, of Washington City, to be summoned before them for the purpose of giving testimony, who appeared this the 7th day of March, 1876, and after being duly sworn, did testify as follows:

Alcaeus B. Wolfe sworn.

By the CHAIRMAN:

Q. Where do you reside?—A. In this city.

Q. How long have you resided here?—A. Since the early part of September, 1861.

Q. Were you ever employed as clerk or bookkeeper of Mr. S. P. Brown?—A. Yes, sir.

Q. During what year?—A. From the middle of January, 1867, until August, 1874.

Q. You were, then, in his employ in April, 1872?—A. Yes, sir; I was in the employ of S. P. and A. P. Brown. The firm was S. P. Brown & Son.

Q. Were you summoned as a witness to appear before a House committee during that time?—A. Not to my knowledge. I was taken with pneumonia about that time, and was so ill I could not leave my room, and in fact could not be interviewed even by anyone. There was no summons sent to me at that time to my knowledge.

Q. You are aware that at that time the connection of S. P. Brown with the "Governor" claim was being investigated?—A. Yes, sir; I know there was such a claim, but my recollection will not make me fix the exact date. I know he was connected with that claim.

[A number of questions as to the payment of sums of money to Mr. Brown, all of which the witness answered, are omitted. They are given in full in the Journal, *ubi supra*.]

Q. Did he deposit or pass any money to his credit?—A. On several occasions when Mr. Brown has obtained a fee for procuring the payment of claims, he took the money and made a special deposit in the safe-deposit company in this way: The money was handed into them in an envelope with his name on it only. He had a great many judgments against him, and he did this to avoid having the money attached. They did not know what was in the envelopes, and I did not know what amounts he put in there.

Q. Immediately after these parties came out, do you know that he made such a deposit as that?—A. I would not say that he did or did not.

Q. Have you any knowledge?—A. I have no recollection. Four years ago is rather more than I would carry in my memory, for it was an everyday transaction, you may almost say. He would take this money, lay it in there, and would not put it into the bank for fear it would be attached. He would just take it over there, and then give me a note, and I would go over and get the money.

Q. Did you ever take any money by direction of Mr. Brown and hand it to anybody connected with the naval service?—A. I decline to answer that question.

Q. Do you know the peril you are likely to incur in refusing to answer?—A. Yes, sir; I came expecting it.

Q. I ask you if you have not been offered a sum of money not to appear before this committee?—A. I have not.

Q. Have you ever been offered any inducement not to appear?—A. No, sir.

Q. Have you been asked not to appear?—A. No, sir.

Q. What has been said to you by anybody about appearing as a witness before this committee?—A. Nothing whatever, sir, that I can remember, before this committee.

Q. Or before the committee four years ago?—A. No, sir.

Q. Was no effort made by persuasion or otherwise to induce you not to appear?—A. No, sir; not by any human being.

Q. Do you know of any commissions or payments being in any way made to any person connected with the naval service by any contractor or claim agent?

The WITNESS. With what purpose; for furthering their interests?

The CHAIRMAN. Yes, sir.

The WITNESS. I decline to answer that question.

At the request of the witness, he was then allowed to leave the committee room for a short time, in the custody of an officer of the House, to transact some private business. Upon his return the examination continued.

By the CHAIRMAN:

Q. Have you reflected upon your duty to answer the questions propounded to you heretofore?—A. I could not answer those questions.

Q. I repeat them to you specifically by direction of the committee. The first was, "Did you ever take any money by direction of Mr. Brown and hand it to anybody connected with the naval service?" Your answer was, "I decline to answer that question."

The WITNESS. Will you please specify which Mr. Brown?

The CHAIRMAN. Either one.

The WITNESS. I can not answer the question.

Q. Do you know of any commissions or payments being in any way made to any person connected with the naval service?—A. I decline to answer that question.

Q. Do you decline to answer for any reason personal to yourself?—A. Not that I have any personal interest in it, sir; that is, not a monetary interest.

Q. You are aware, probably, that under the law one is not bound to criminate himself. Is that your reason for declining to answer?—A. No, sir. I will state this—that I never received at any one time a dollar for anything that Mr. Brown may have paid without my knowledge or with my knowledge to any man. I do not wish that to be interpreted that I know that he did pay anything.

Q. Mr. S. P. Brown and A. P. Brown are contractors with the Navy Department, are they not, or have been?—A. They were at one time in partnership as contractors. Since then they have dissolved partnership, and each one contracts individually as far as I know. They carry on business under different licenses, and I presume carry it on separately; but at the time you refer to they were partners.

Q. And were acting as claim agents?—A. The old gentleman did more of the claim agency business than the young man did. The latter attended more to the lumber business; but they acted together in a great many cases.

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms attending this House, or his deputy, commanding him to take into custody forthwith, wherever to be found, the body of Alcæus B. Wolfe, and bring him to the bar of the House, to show cause why he should not be punished for contempt, and in the meantime keep the said Wolfe in custody to await the further orders of the House.

Under the operation of the previous question, the resolution was agreed to.

Ib., 536-537.] MARCH 8, 1876.

The Sergeant-at-Arms, to whom was directed the Speaker's warrant under the resolution of the House yesterday, appeared at the bar of the House having in custody, as therein commanded, the body of A. B. Wolfe;

When,

Mr. Whitthorne, from the Committee on Naval Affairs, reported the following preamble and resolution; which were read, considered, and agreed to, viz:

Whereas it appears to the House that Mr. A. B. Wolfe has appeared before the House Naval Committee, and answered all questions that were propounded to him by the committee: Therefore

Resolved, That the witness, A. B. Wolfe, be discharged from the custody of the Sergeant-at-Arms and ordered before the committee for such other and further examination as they may choose to make touching the matters before them, by order of this House.

HALLET KILBOURN.

January 24, 1876, the House adopted the following:

Whereas the Government of the United States is a creditor of the firm of Jay Cooke & Co., now in bankruptcy by order and decree of the District Court of the United States in and for the Eastern District of Pennsylvania, resulting from the improvident deposits made by the Secretary of the Navy of the United States with the London branch of said house of Jay Cooke & Co. of the public moneys; and whereas a matter known as the real-estate pool was only partially inquired into by the late joint select committee to inquire into the affairs of the District of Columbia, in which Jay Cooke & Co. had a large and valuable interest; and whereas Edwin M. Lewis, trustee of the estate and effects of the said firm of Jay Cooke & Co., has recently made a settlement of the interest of the estate of Jay Cooke & Co., with the associates of said firm of Jay Cooke & Co. to the disadvantage and loss, it is alleged, of the numerous creditors of the said estate, including the Government of the United States; and whereas the courts are now powerless by reason of said settlement to afford adequate redress to said creditors:

Resolved, That a special committee of five members of this House, to be selected by the Speaker, be appointed to inquire into the matter and history of said real-estate pool and the character of said settlement, with the amount of property involved in which Jay Cooke & Co. were interested, and the amount paid or to be paid in said settlement, with power to send for persons and papers and report to this House.

The plaintiff, Kilbourn, appeared before the committee appointed under this resolution in obedience to a subpœna duly issued by the Speaker, under his hand and the seal of the House, and attested by the Clerk, summoning him to appear and testify and to bring with him certain books and papers. In the course of his examination he was asked, "Will you state where each of the five members reside, and will you please state their names?" This question Mr. Kilbourn refused to answer. He was further interrogated: "Mr. Kilbourn, are you now prepared to produce, in obedience to the subpœna *duces tecum*, the records which you have been required by the committee to produce?" and declined to produce the records asked for.

March 14, 1876, the committee reported these facts to the House, and added:

"The committe are of opinion and report that it is necessary for the efficient prosecution of the inquiry ordered by the House, that the said Hallet Kilbourn should be required to respond to the subpœna *duces tecum* and answer the questions he has refused to answer; and that there is no sufficient reason why the witness should not obey said subpœna *duces tecum* and answer the questions which he has refused to answer; and that his refusal as aforesaid is in contempt of this House."

Whereupon the House voted that the plaintiff should be taken into custody by the Sergeant-at-Arms and brought to the bar of the House to show cause why he should not be punished as guilty of contempt of its dignity and authority, and directed the Sergeant-at-Arms in the meantime to keep him in custody to await the further order of the House. Kilbourn was arrested under the Speaker's warrant, issued in pursuance of the above vote, and brought to the bar. In the course of his examination by the Speaker he was asked: "Mr. Kilbourn, are you now prepared to answer, upon the demand of the proper committee of the House, where each of these five members reside?" (referring to the members of the real estate pool) and he refused to answer. Kilbourn likewise was asked, "Are you prepared to produce in obedience to the subpœna *duces tecum* the records which you have been required by the committee to produce?" and again declined. Thereupon the House passed the following:

Resolved, That Hallet Kilbourn, having been heard by the House pursuant to the order heretofore made requiring him to show cause why he should not answer questions propounded to him by a committee and respond to the subpœna *duces tecum* by obeying the same, and having failed to show sufficient cause why he should not answer said questions and obey said subpœna *duces tecum* be, and is, therefore, considered in contempt of said House because of said failure.

Resolved, That in purging himself of the contempt for which Hallet Kilbourn is now in custody, the said Kilbourn shall be required to state to the House whether he is now willing to appear before the committee of the House to whom he has hitherto declined to obey a certain subpœna *duces tecum* and to answer certain questions and obey said subpœna *duces tecum*, and answer said questions; and if he answers that he is ready to appear before said committee and obey said subpœna *duces tecum*, and answer said questions, then said witness shall have the privilege to appear and obey and answer forthwith, or as soon as said committee can be convened, and that in the meantime the witness remain in custody; and in event that said witness shall answer that he is not ready to so appear before said committee and obey said subpœna *duces tecum*, and make answer to said questions as aforesaid, then that said witness be recommitted to the said custody for the continuance of said contempt, and that such custody shall continue until the said witness shall communicate to this House through said committee that he is ready to appear before said committee and make such answer and obey said subpœna *duces tecum;* and that in executing this order the Sergeant-at-Arms shall cause the said Kilbourn to be kept in his custody in the common jail of the District of Columbia.

The witness remained in the custody of the Sergeant-at-Arms until April 18, 1876, when he was delivered to the Marshal of the District of Columbia, under a writ of habeas corpus issued by the Supreme Court for the District of Columbia.

Kilbourn subsequently brought action for false imprisonment against the Sergeant-at-Arms, Speaker, and four Members of the House, in which he was successful.—Kilbourn *v.* Thompson, 103 U. S. 168, *v. infra* p. 74.

1st sess. 44th Cong., J. of H., 578.] MARCH 14, 1876.

Mr. Glover, from the Select Committee on the Real-Estate Pool and Jay Cooke Indebtedness, appointed under the resolution of the House, made a partial report as follows, viz:

On the 24th day of January, A. D. 1876, the House adopted the following resolution:

Whereas the Government of the United States is a creditor of the firm of Jay Cooke & Co., now in bankruptcy, by order and decree of the district court of the United States in and for the eastern district of Pennsylvania, resulting from the improvident deposits made by the Secretary of the Navy of the United States with the London branch of said Jay Cooke & Co., of the public moneys; and whereas a matter known as the "real-estate pool" was only partially inquired into by the late

Joint Select Committee to Inquire into the Affairs of the District of Columbia, in which Jay Cooke & Co. had a large and valuable interest; and whereas Edwin M. Lewis, trustee of the estate and effects of said firm of Jay Cooke & Co., has recently made a settlement of the interest of the estate of Jay Cooke & Co. with the associates of said firm of Jay Cooke & Co., to the disadvantage and loss, as it is alleged, of the numerous creditors of said estate, including the Government of the United States; and whereas courts are now powerless by reason of said settlement to afford adequate redress to said creditors:

Resolved, That a special committee of five members of this House, to be selected by the Speaker, be appointed to inquire into the nature and history of said "real-estate pool" and the character of said settlement, with the amount of property involved in which Jay Cooke & Co. were interested, and the amount paid or to be paid in said settlement, with power to send for persons and papers, and report to this House.

Under said resolution, the undersigned committee was appointed and, in conformity with the power therein conferred, have sent for persons and papers. The committee caused a subpœna *duces tecum* to be issued and duly served on one Hallet Kilbourn, a resident of this District. Said subpœna is in the words and figures following, to-wit:

[The subpœna required the witness to bring with him certain deeds or declarations of trust relating to certain lots in the city of Washington, sold by the witness as trustee for the "real estate pool," in which the firm of Jay Cooke & Co. had an interest, together with vouchers and other papers. It may be found in full at pp. 579, 580 of the Journal.]

Said Kilbourn appeared as a witness before the committee on the 4th day of March, 1876, at 10 o'clock a. m., and, after being duly sworn according to law, was interrogated as follows:

By Mr. NEW:

* * * * * * *

Q. State whether you have in your possession now, and have brought to the committee room, the papers, documents, memoranda, etc., referred to in the subpœna *duces tecum* served upon you?—A. I have not.

Q. State whether you are prepared to produce them at this sitting of the committee?—A. I am not prepared to produce them to-day.

Q. State whether you are willing to produce them now or at any further sitting of the committee?—A. As at present advised, I am not prepared.

Q. You refuse to produce them before the committee in response to this subpœna?—A. Yes, sir. I would like to state the reasons therefor—my personal reasons. My partner and myself are in a private business. We have no connections with the Government of the United States and never have had; are conscious of having violated no law; are not charged with any fraud. Our business that we do is done with private citizens throughout the country, and I stand upon the right which I think belongs to every private citizen not accused of violating any law, of being protected in his papers. Whatever the law decides, however, I am willing to abide by. I sustain but one relation to the Government, and that is to pay taxes and obey the law. That is the only transaction I have with the Government at all.

[Mr. Kilbourn then answered a few questions put to him and the committee adjourned.

The following day the witness was examined at length by the committee, and in the course of the examination declined to state the names of the gentlemen who composed the "pool," or where they resided. The committee stated to him that they considered him bound to obey the subpœna, and to produce the records required. Mr. Kilbourn desired an opportunity to consult counsel, and was given until 3 p. m. of that day. At that time he appeared, and again declined to answer or to produce the papers required, on the ground that the matters were private, but expressed his entire willingness to produce all his books and papers if "any member of the committee [would] express his conviction, grounded on any fact known to him, that there [was] any connection whatever with any public man that Congress [had] a right to investigate or to found any legislation upon."

The whole proceedings before the committee are to be found 1st sess. 44th Cong., J. of H. 581–588.]

The committee are of opinion and report that it is necessary, for the efficient prosecution of the inquiry ordered by the House, that said Hallet Kilbourn should be required to respond to the subpœna *duces tecum*, and answer the questions which he has refused to answer; and that there is no sufficient reason why the witness should not obey said subpœna *duces tecum* and answer the questions he has declined to answer, and that his refusal as aforesaid is in contempt of this House.

J. M. GLOVER, *Chairman.*
J. D. NEW.
B. B. LEWIS.
A. HERR SMITH.

Mr. Pratt is absent.

Accompanied by the following resolution, viz:

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms attending this House, or his deputy, commanding him to take into custody forthwith, wherever to be found, the body of Hallet Kilbourn, and him bring to the bar of the House to show cause why he should not be punished for contempt; and in the meantime to keep the said Kilbourn in his custody to wait the further order of this House; which, under the operation of the previous question, was agreed to.

Mr. Glover moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Ib., 736.] APRIL 3, 1876.

Mr. Glover moved that the rules be suspended so as to allow him to submit, and the House agree to, the following preamble and resolution, viz:

Whereas it appears from the accounts of the keeper of the House restaurant with Hallet Kilbourn that said Kilbourn, now confined as a prisoner in the District jail by order of this House, is being fed in the most extravagant and sumptuous manner, and his meals are being sent to him twice daily from the Capitol to the jail in a hack, and he is also being furnished by his friends with wines of the most expensive kind; and whereas such things are destructive of all jail discipline and of the object for which said Kilbourn has been imprisoned: Therefore,

Resolved, That the Sergeant-at-Arms is hereby authorized and required to contract with the jailer of this District to furnish said Kilbourn the same prison fare as is furnished to other prisoners in said jail, and the said Sergeant-at-Arms is hereby instructed not to furnish to the said Kilbourn any fare other than that above specified, nor to allow him any wines, liquors, or other intoxicating drink, except when the same may be prescribed to him as medicine by a regular physician of good standing.

And the question being put, Will the House suspend the rules and agree to the preamble and resolution?

Mr. Garfield, at 5 o'clock and 20 minutes p. m., moved that the House adjourn; which motion was not agreed to.

The question recurring on the question, Will the House suspend the rules and agree to the preamble and resolution?

It was decided in the negative—yeas, 96; nays, 59; not voting, 134 (two-thirds not voting in favor thereof).

So the House refused to suspend the rules and agree to the preamble and resolution.

Ib., 789.] APRIL 12, 1876.

The Speaker laid before the House the following communication from Mr. Thompson, Sergeant-at-Arms of the House of Representatives, viz:

OFFICE SERGEANT-AT-ARMS, HOUSE OF REPRESENTATIVES,
Washington, D. C., April 11, 1876.

SIR: I respectfully report to you, and through you to the House of Representatives, that on this day a writ of habeas corpus has been served upon me, commanding me, as the Sergeant-at-Arms of the House of Representatives, to have the body of Hallet Kilbourn, who is now in my custody, before one of the justices of the supreme court of the District of Columbia at 10 o'clock in the forenoon on the 12th day of April, 1876, to do and receive whatever shall then and there be considered in that behalf. Said Hallet Kilbourn is now detained in my custody by the order and judgment of the House of Representatives, because of an adjudged contempt of its authority.

I respectfully ask the instruction of the House as to what my action in the premises shall be.

A copy of said writ is attached hereto.

All of which is respectfully submitted.

JOHN G. THOMPSON,
Sergeant-at-Arms, House of Representatives.

Hon. M. C. KERR,
Speaker, House of Representatives.

DISTRICT OF COLUMBIA, *to wit:*

The President of the United States to John G. Thompson, Sergeant-at-Arms of the House of Representatives of the Congress of the United States of America, greeting:

You are hereby commanded to have the body of Hallet Kilbourn, detained under your custody, as it is said, together with the day and cause of his being taken and

detained, by whatever name he may be called in the same, before one of the justices of the supreme court of the said District, at the court-house, in the city of Washington, at 10 o'clock in the forenoon of the 12th day of this instant, to do and receive whatever shall then and there be considered of in his behalf, and have then and there this writ.

Witness D. K. Cartter, chief justice of said court, the 11th day of April, 1876.

[SEAL.] R. J. MEIGS, *Clerk, etc.*

A true copy.

R. J. MEIGS, *Clerk, etc.*
By R. J. MEIGS, JR., *Assistant.*

Mr. New, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the matter of habeas corpus relating to Hallet Kilbourn, a recusant witness, as just called to the attention of the House through the Speaker, by the Sergeant-at-Arms, be referred to the Committee on the Judiciary for their examination and opinion as to what should be the action of the Sergeant-at-Arms in reference thereto, and that said committee report to the House on Saturday next.

Ib., 807.] APRIL 15, 1876.

By unanimous consent, Mr. Hurd, from the Committee on the Judiciary, reported the following preamble and resolution, viz:

Whereas one Hallet Kilbourn was subpœnæd to testify in a certain investigation ordered by this House, before a committee duly authorized to send for persons and papers; and whereas during his examination as a witness the said Hallett Kilbourn refused to answer certain questions propounded to him as such witness by said committee, and to produce certain books and papers which he was ordered by said committee to produce; and whereas for such refusal the House of Representatives has adjudged the said Hallet Kilbourn to be in contempt of its authority, and has ordered him into custody until he shall purge himself of said contempt, and answer the questions as propounded and produce the papers and books ordered to be produced; and whereas said committee is still engaged in the investigation which it was ordered to make by the House, and is unable to complete the same because of the contumacy of the witness; and whereas the said Hallet Kilbourn is now in execution by the legal process of this House as aforesaid; and whereas the Chief Justice of the Supreme Court of the District of Columbia has issued a writ of habeas corpus to the Sergeant-at-Arms of this House, directing him to produce before the said judge the body of the said Kilbourn. Therefore,

Be it resolved, That the Sergeant-at-Arms be directed to make a careful return of said writ, setting out the causes of the detention of said Kilbourn, and to retain the custody of his body, and not to produce it before the said judge or court without further order of this House.

Mr. Lynde submitted the following resolution as a substitute for the resolution offered by Mr. Hurd, viz:

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to make a careful return to the writ of *habeas corpus* in the case of Hallet Kilbourn, that the prisoner is duly held by the authority of the House of Representatives to answer in proceedings against him for contempt, and that the Sergeant-at-Arms take with him the body of the said Kilbourn before said court when making such return as required by law.

After debate,

Mr. Jenks moved to amend the resolution submitted by Mr. Hurd, as follows, viz:

After the word "Kilbourn," where it last occurs in the resolution, insert the following words:

and the irregularity of issuing the writ without a previous order nisi, or rule to show cause.

Pending which,

* * * * * * *

Ib. 812.] APRIL 17, 1876.

The House having resumed the consideration of the report from the Committee on the Judiciary, on the subject of the writ of habeas corpus, in the case of Hallet Kilbourn, Mr. Jenks withdrew his amendment to the same;

When

Mr. Tucker moved to amend said report as follows, viz:

Strike out all after the word "Kilbourn," where it occurs before the word "therefore," at the close of the preamble, and insert the following:

And whereas, the facts stated in the petition and complaint of said Kilbourn present the question whether the said writ could lawfully and properly be issued, and whether the same was not therefore improvidently awarded; Therefore,

Be it resolved, That the Sergeant-at-Arms of this House be directed to appear by counsel before the said court and make a motion to quash or dismiss said writ, or take such other procedure as he should be advised is proper to raise the question of the legality and propriety of the issue of said writ, upon the facts stated in the petition or complaint and as preliminary to any return to the same; and in the meantime he is directed to retain the custody of the body of the said Kilbourn, and not to produce it under the order of said writ without the further order of this House.

After debate,

The question was taken on agreeing to the amendment submitted by Mr. Tucker; which was not agreed to.

The question then recurred on the following amendment, submitted by Mr. Lynde as a substitute for the preamble and resolution reported by the committee on the Judiciary, viz:

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to make careful return to the writ of habeas corpus in the case of Hallet Kilbourn, that the prisoner is duly held by authority of the House of Representatives, to answer in proceedings against him for contempt, and that the Sergeant-at-Arms take with him the body of said Kilbourn before said court when making such return as required by law.

And the question being put,

Will the House agree to said amendment?

It was decided in the affirmative,

Yeas	166
Nays	75
Not voting	49

[The names are omitted.]

So the amendment was agreed to.

The report of the committee on the Judiciary, as amended, was then agreed to.

Mr. Kelley moved that the vote by which the report was agreed to be reconsidered, and also that the motion to reconsider be laid on the table; which latter motion was agreed to.

Ib. 821.] APRIL 19, 1876.

The Speaker, by unanimous consent, laid before the House the following communication, viz:

OFFICE SERGEANT-AT-ARMS, HOUSE OF REPRESENTATIVES,
Washington, D. C., April 17, 1876.

MY DEAR SIR: I desire respectfully to report to you, and through you to the House of Representatives, that, in accordance with the resolution passed by your honorable body on the 17th instant, I have this day, at 10 o'clock a. m., made a careful return to the writ of *habeas corpus* heretofore issued by the chief-justice of the District of Columbia, commanding me to produce the body of Hallet Kilbourn, committed to my custody by order of the House.

The return set out in detail the facts relating to his detention, and that he was in my custody by virtue of an adjudication of this House finding him guilty of contempt of its authority. I likewise produced the body of the said Kilbourn and presented it to the judge who had issued the writ. Thereupon he ordered the said Kilbourn into the custody of the marshal of the District of Columbia, who immediately took possession of his body.

Very repectfully, your obedient servant,

Hon. M. C. KERR, *Speaker.*

JOHN G. THOMPSON, *Sergeant-at-Arms.*

WILLIAM M. TURNER.

Mr. Turner was summoned as a witness before the Committee on Privileges and Elections in the course of the inquiry into the facts attending the Presidential election of 1876 in Oregon, and being asked about certain dispatches alleged to have been sent over the wires of the Western Union Telegraph Company, declined to answer. The committee therefore reported a resolution declaring that he was in duty bound to answer. After debate the resolution was agreed to—yeas 35, nays 3.

2d sess. 44th Cong., J. of S., 75.] JANUARY 3, 1877.

Mr. Morton, from the Committee on Privileges and Elections, who were instructed by resolution of the Senate of December 22, 1876, to inquire into the facts attending the late Presidential election in the State of Oregon, submitted a report (No. 548), stating that one William M. Turner, having been called as a witness, and having had certain questions propounded to him, the answers to which were deemed material in the investigation of the matter intrusted to the committee, had declined to answer;

and, on behalf of the committee, he submitted the following resolution for consideration:

Resolved, That William M. Turner is in duty bound, under his oath, to answer the questions that have been propounded to him as above stated, and that he can not excuse himself from answering the same by reason of his official connection with the Western Union Telegraph Company, as the manager of their office at Jacksonville, Oregon.

Ib., 82.] JANUARY 5, 1877.

On motion by Mr. Morton,

The Senate proceeded to consider the resolutions reported by the Committee on Privileges and Elections, declaring William M. Turner in duty bound to answer certain questions propounded to him by the said committee; and

On the question to agree thereto,

The yeas were 33 and the nays were 3.

[The names are omitted.]

The number of Senators voting not constituting a quorum,

On motion by Mr. Edmunds, at 2 o'clock and 46 minutes p. m., the Senate adjourned.

[For the debate see Cong. Globe, 2d sess. 44th Cong., 439.]

Ib., 88.] JANUARY 8, 1877.

The President *pro tempore* announced that the morning hour had expired, and called up the unfinished business of the Senate at its last adjournment, viz, the resolution adopted by the Committee on Privileges and Elections declaring William M. Turner in duty bound to answer certain questions propounded to him by the said committee; and,

On the question to agree to the resolution, as follows:

Resolved, That William M. Turner is in duty bound, under his oath, to answer the questions that have been propounded to him as above stated, and that he can not excuse himself from answering the same by reason of his official connection with the Western Union Telegraph Company, as the manager of their office at Jacksonville, Oregon;

It was determined in the affirmative, { Yeas ..... 35 / Nays 3

On motion by Mr. Eaton,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the resolution was agreed to.

[For the debate, see Cong. Globe, 2d sess. 44th Cong., 476–477.]

ENOS RUNYON.

Mr. Runyon appeared before the Committee on Privileges and Elections in accordance with the usual summons, but declined to answer certain questions. His arrest was therefore ordered. Two days later he was discharged from the custody of the Sergeant-at-Arms, "having appeared before the Committee on Privileges and Elections and answered the questions propounded to him."

2d sess. 44th Cong., J. of S., 86.] JANUARY 8, 1877.

Mr. Morton, from the Committee on Privileges and Elections, who were instructed by resolution of the Senate of December 22, 1876, to investigate the facts attending the recent appointment of electors for President and Vice-President in the State of Oregon, reported that one Enos Runyon, having been summoned as a witness, and having had certain questions propounded to him which the committee deemed important in the investigation, the witness had declined to answer, and on behalf of the committee he submitted the following resolution; which was ordered to be printed:

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms of the Senate, commanding him forthwith to arrest and to bring to the bar of the Senate the body of Enos Runyon, to show cause why he should not be punished for contempt, and in the meantime to keep the said Runyon in his custody to await the further order of the Senate.

[The report of the committee is set forth at length in the Congressional Globe, 2d sess. 44th Cong., 472–476.]

2d sess. 44th Cong., J. of S., 92.] JANUARY 9, 1877.

On motion by Mr. Morton,

The Senate proceeded to consider the resolutions yesterday reported by the Committee on Privileges and Elections directing that Enos Runyon be arrested and

to appear before said committee as required by said subpœna, or to produce such statement of accounts as required: Therefore

Resolved, That an attachment issue forthwith, directed to the Sergeant-at-Arms of brought to the bar of the Senate to show cause why he should not be punished for contempt; and

The resolution was agreed to, as follows:

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms of the Senate, commanding him forthwith to arrest and to bring to the bar of the Senate the body of Enos Runyon, to show cause why he should not be punished for contempt, and in the meantime keep the said Runyon in his custody to await the further order of the Senate.

[For the debate see Congressional Record, 2d sess. 44th Cong., pp. 493–495.]

Ib., 97.] JANUARY 11, 1877.

Mr. Morton, from the Committee on Privileges and Elections, reported the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That Enos Runyon, having appeared before the Committee on Privileges and Elections and answered the questions propounded to him, and thereby purged himself of contempt, is hereby discharged from the custody of the Sergeant-at-Arms.

J. F. LITTLEFIELD.

Mr. Littlefield was summoned to appear before the Committee on Privileges and Elections and failed to obey the summons. Whereupon an order for his arrest was issued to the Sergeant-at-Arms. No further proceedings appear to have been taken under the order.

2d sess. 44th Cong., J. of S., 196.] FEBRUARY 5, 1877.

Mr. Howe, from the Committee on Privileges and Elections, which was instructed, by a resolution of the Senate of the 5th December last, to inquire into the alleged denial or abridgment of the rights of citizens into the States of South Carolina, Georgia, Florida, Alabama, Louisiana, and Mississippi to vote at the recent election for electors of President and Vice-President, members of Congress, and State officers, stated that in the investigation of the election in the State of Louisiana, one J. F. Littlefield, who was under examination as a witness, had failed to appear as directed by the committee for the completion of his testimony, and on behalf of the committee submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms of the Senate, commanding him forthwith to arrest and bring to the bar of the Senate the body of J. F. Littlefield, to show cause why he should not be punished for contempt, and in the meantime to keep the said Littlefield in his custody to await the further order of the Senate.

[See Cong. Record, 2d sess. 44th Cong., 1258.]

CONRAD N. JORDAN.

Conrad N. Jordan was served with a subpœna *duces tecum* issued by the Committee on Privileges and Elections, and failed to appear. The committee thereupon reported an order for his arrest, which was adopted February 13, 1877. While under arrest he appeared before the committee and submitted to an examination, declining, however, to produce the books required, on the ground that he was not the custodian of them. Having stated his willingness to answer any proper question he was discharged.

2d sess. 44th Cong., J. of S., 228.] FEBRUARY 12, 1877.

Mr. Mitchell submitted the following resolution for consideration:

Whereas Conrad N. Jordan, cashier of the Third National Bank, New York, was, on the 7th day of February, 1877, at 10 o'clock a. m., duly served with a subpœna *duces tecum* issued by the Senate Committee on Privileges and Elections, commanding him to appear before such committee on the 8th day of the present month, to then and there testify to subject-matters under consideration by said committee, being matters relating to the controversy concerning the electoral votes for President and Vice-President, and to bring with him a full and exact statement of the accounts, as shown by the books of said Third National Bank, of Samuel J. Tilden, William T. Pelton, and Abram S. Hewitt, from the 1st of June, 1876, to the 6th day of February, 1877; and

Whereas said Conrad N. Jordan has refused to respond to such subpœna, has failed

the Senate, commanding him to bring said Conrad N. Jordan forthwith to the bar of the Senate to answer for contempt of a process of this body.

[Cong. Record, 2d sess. 44th Cong., 1488.]

Ib., 237.] FEBRUARY 13, 1877.

On motion by Mr. Mitchell to postpone the further consideration of the said bill, and that the Senate resume the consideration of the resolution to bring Conrad N. Jordan to the bar of the Senate to answer for contempt,

It was determined in the affirmative, { Yeas ..... 35 / Nays 14

So the motion was agreed to.

The Senate resumed the consideration of the said resolution; and,

Pending debate,

On motion by Mr. McCreery, at 4 o'clock p. m., that the Senate take a recess until to-morrow (Wednesday) at 10 o'clock a. m.,

It was determined in the negative, { Yeas ..... 18 / Nays 32

So the motion was not agreed to.

The resolution was then agreed to, as follows:

Whereas Conrad N. Jordan, cashier of the Third National Bank, New York, was, on the 7th day of February, 1877, at 10 o'clock a. m., duly served with a subpœna *duces tecum* issued by the Senate Committee on Privileges and Elections, commanding him to appear before such committee on the 8th day of the present month, to then and there testify in reference to subject-matters under consideration by said committee, being matters relating to the controversy concerning the electoral votes for President and Vice-President, and to bring with him a full and exact statement of the accounts, as shown by the books of said Third National Bank, of Samuel J. Tilden, William T. Pelton, and Abram S. Hewitt, from the 1st day of June, 1876, to the 6th day of February, 1877; and

Whereas said Conrad N. Jordan has refused to respond to such subpœna, has failed to appear before said committee as required by said subpœna, or to produce such statement of accounts as required: Therefore

Resolved, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring Conrad N. Jordan forthwith to the bar of the Senate to answer for contempt of a process of this body.

[Cong. Rec., 2d sess. 44th Cong., 1512-1523.]

Ib., 310.] FEBRUARY 23, 1877.

The President *pro tempore* laid before the Senate the return of the writ issued to the Sergeant-at-Arms on the 13th instant, commanding him to bring Conrad N. Jordan to the bar of the Senate to answer for a contempt of a process of the Senate; and,

The return having been read,

Mr. Mitchell submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the witness, Conrad N. Jordan, be brought to the bar of the Senate by the Sergeant-at-Arms.

Whereupon,

The Sergeant-at-Arms having appeared at the bar of the Senate with the witness,

The witness presented a statement in writing, which he asked to have read.

The statement having been read,

Mr. Mitchell submitted the following resolution:

Resolved, That the President of the Senate propound the following question to the witness: "Are you now willing to appear before the Committee on Privileges and Elections and answer all proper questions?"

The Senate proceeded to consider the said resolution; and,

After debate,

The President *pro tempore* having stated to the witness that he could make any explanation he desired,

The witness replied that he was ready to answer any proper question propounded to him by the committee.

Whereupon

Mr. Mitchell, with the consent of the Senate, withdrew the resolution, and submitted the following resolution for consideration:

Resolved, That the witness, Conrad N. Jordan, upon his appearance before the Committee on Privileges and Elections for examination, be discharged from contempt in refusing to respond to the subpœna.

The Senate proceeded to consider the resolution; and
On motion by Mr. Ingalls to amend the resolution by striking out all after the word "Resolved," and in lieu thereof inserting "That the witness, Conrad N. Jordan, be now discharged as from contempt,"
It was determined in the affirmative; and
The resolution, as amended, was agreed to.
So it was
Resolved, That the witness, Conrad N. Jordan, be now discharged as from contempt.
[See Cong. Rec., ib., 1855–1864. Mr. Jordan having appeared before the committee while under arrest and submitted to an examination, it was argued when he was brought before the Senate that he could no longer be held for a contempt of the subpœna. After debate, it was agreed that the witness be asked if he were then willing to appear before the committee and answer, and on his replying in the affirmative he was discharged.]

J. V. ADMIRE, E. B. PURCELL, GEORGE T. ANTHONY, L. T. SMITH, AND LEVI WILSON.

These gentlemen were summoned to appear before a subcommittee of the Committee on Privileges and Elections sitting in Kansas, and refused to appear. The Senate ordered their arrest. Messrs. Smith, Wilson, and Purcell were arrested and brought to the bar of the Senate, and having expressed a willingness to answer, were discharged.
Mr. Admire appeared at the bar on a subsequent day and explained that his failure to appear was due to illness in his family, and was discharged.
Mr. Anthony was discharged without appearance at the bar at the request of the committee, it appearing that he had given his testimony before the committee.

2d sess. 46th Cong., J. of S., 73.] DECEMBER 18, 1879.

Mr. Saulsbury, from the Committee on Privileges and Elections, reported the following resolution; which was considered by unanimous consent and agreed to:
Whereas J. V. Admire, E. B. Purcell, George T. Anthony, Len. T. Smith, and Levi Wilson, citizens and residents of the State of Kansas, were duly served with subpœnas in the months of September and October, 1879, issued by the subcommittee of the Senate Committee on Privileges and Elections, then sitting in Topeka, in said State of Kansas, commanding each of them to appear before said subcommittee and then and there testify in reference to the subject-matter then under consideration by said subcommittee, to wit, charges relating to the election of John J. Ingalls, a Senator from Kansas; and
Whereas said Admire, Purcell, Anthony, Smith, and Wilson refused to appear and testify before said subcommittee as required by said subpœnas; therefore,
Resolved, That an attachment issue forthwith, directed to the Sergeant-at-Arms of the Senate, commanding him to bring said J. V. Admire, E. B. Purcell, George T. Anthony, Len. T. Smith, and Levi Wilson forthwith to the bar of the Senate, to answer for contempt of a process of this body.

Ib., 95.] JANUARY 8, 1880.

The Sergeant-at-Arms appeared at the bar of the Senate, having in custody Leonard T. Smith, Levi Wilson, and E. B. Purcell, arrested by order of the Senate and brought to its bar to answer for a contempt of a process of the Senate.
Whereupon,
The Vice-President laid before the Senate the return of the writ of attachment issued to the Sergeant-at-Arms, commanding him to bring J. V. Admire, George T. Anthony, Leonard T. Smith, Levi Wilson, and E. B. Purcell to answer for a contempt of a process of the Senate.
The return having been made,
Leonard T. Smith, one of the witnesses, advanced, and made statement of his reasons for failure to answer to the summons of the Senate.
On motion by Mr. McMillan that the witness be discharged,
On motion by Mr. Garland to amend the motion as follows, viz: That the witness, having purged himself of contempt, be discharged from the rule,
After debate,
It was determined in the affirmative.
Mr. Saulsbury submitted the following resolution as an amendment to the motion of Mr. McMillan, as amended:
Whereas Leonard T. Smith, now in custody of the Sergeant-at-Arms on an attachment for contempt for refusing obedience to a summons to appear before a committee of the Senate, has purged himself of contempt and expressed his willingness to

appear before the Committee on Privileges and Elections and answer such proper questions as may be put to him; therefore

Resolved, That said Leonard T. Smith be discharged from arrest and that he appear before said Committee on Privileges and Elections and testify under the subpœna served upon him.

It was determined in the negative.

The question recurring on the motion of Mr. McMillan, as amended,

It was determined in the affirmative.

[It appears from the debate that Mr. Smith had important business to attend to when summoned and so telegraphed the chairman of the subcommittee, at the same time stating that he knew nothing concerning the matter under investigation, but expressing a willingness to appear should the committee still desire his attendance.

Messrs. Wilson and Purcell both stated that important business prevented their attendance. All three witnesses disclaimed any intentional want of respect to the Senate or its committee.

The sufficiency of a return which states that the subpœna was served by a deputy and is signed by the Sergeant-at-Arms is discussed. Cong. Rec., ib., 234–241.]

Levi Wilson, another of the witnesses, having made statement of his reasons for failure to answer the summons of the Senate,

On motion by Mr. Saulsbury that the witness be discharged from the rule,

It was determined in the affirmative.

E. B. Purcell, another of the witnesses, having made statement of his reasons for failure to answer the summons of the Senate,

On motion by Mr. Saulsbury, that the witness be discharged from the rule,

It was determined in the affirmative.

On motion by Mr. Saulsbury,

Ordered, That the Sergeant-at-Arms have further time to make return concerning the failure of J. V. Admire and George T. Anthony, the other witnesses named in the writ of attachment of December 18, 1879, to answer for a contempt of a process of the Senate.

Ib., 138.] JANUARY 20, 1880.

The Sergeant-at-Arms appeared at the bar of the Senate having in custody J. V. Admire to answer for contempt in refusing obedience to a summons of the Senate.

Whereupon,

The Vice-President laid before the Senate the return of the writ of attachment issued to the Sergeant-at-Arms, December 18, 1879, commanding him to bring J. V. Admire, G. T. Anthony, L. T. Smith, Levi Wilson, and E. B. Purcell to answer for a contempt of a process of the Senate.

The return was read.

The witness having made statement of his reasons for failure to answer to the summons of the Senate,

On motion by Mr. Salisbury that the witness be discharged from the rule,

It was determined in the affirmative.

On motion by Mr. Salisbury,

Ordered, That George T. Anthony, the other witness named in the writ of attachment of December 18, 1879, be discharged as from contempt without appearing before the Senate.

[Mr. Admire, when brought to the bar of the Senate, explained that his neglect to appear before the committee had been caused by serious illness in his family.

Mr. Anthony appeared before the committee on Friday and gave his testimony, stating to the committee that he had large business interests which would suffer materially if he were compelled to remain in the city until Monday to appear before the Senate. The committee, therefore, agreed to ask his discharge. Cong. Rec., ib., 415.]

MILEAGE OF WITNESSES.

[April 2, 1880, Mr. Admire presented a claim for mileage and per diem for the whole time of his absence from home, less four days allowed by the committee. Cong. Rec., ib., 2052.

The Committee on Privileges and Elections, to whom the claim was referred, reported adversely May 25, 1880, and were discharged from further consideration of the matter. Cong. Rec., ib., 3736.]

3d sess. 46th Cong., J. of S., 146.] JANUARY 21, 1881.

Mr. Plumb submitted the following resolution; which was referred to the Committeee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid to J. V. Admire, L. T. Smith, E. B. Purcell, and George T. Anthony, out of the contingent fund of the United States Senate, the mileage for

attending as witnesses from the State of Kansas in the investigation of the election of the Hon. J. J. Ingalls, the same as the other witnesses received.

[Cong. Rec., 3d sess. 46th Cong., 814–815.]

Ib., 174.] JANUARY 28, 1881.

On motion by Mr. Hill of Georgia,

Ordered, That the Committee to Audit and Control the Contingent Expenses of the Senate be discharged from the further consideration of the resolution submitted by Mr. Plumb, January 21, 1881, directing the payment of certain witnesses in the investigation of the election of the Hon. John J. Ingalls, and that it be referred to the Committee on Privileges and Elections.

THOMAS D. FISTER.

Thomas D. Fister, a witness before the Committee on Public Buildings and Grounds, being in contempt of the committee the Senate ordered his arrest. The lateness of the session however prevented any action in the matter and the committee accordingly asked that the resolution be withdrawn, leaving the report standing as a statement of the facts under which by R. S., s. 104, it became the duty of the president of the Senate to report the case to the District Attorney of the District of Columbia for investigation by the grand jury.

2d sess. 50th Cong., J. of S., 369.] FEBRUARY 21, 1889.

Mr. Spooner, from the Committee on Public Buildings and Grounds, who was instructed by a resolution of the Senate of December 21, 1888, to investigate the conduct of the office of the Supervising Architect of the Treasury Department, submitted a report (No. 2643), accompanied by the following resolution, for consideration:

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms of the Senate, commanding him forthwith to arrest and to bring to the bar of the Senate the body of Thomas D. Fister, to show cause why he should not be punished for contempt, and in the meantime to keep the said Fister in his custody to await the further order of the Senate.

Ib., 492.] MARCH 2, 1889.

Mr. Spooner, with the consent of the Senate, withdrew the following resolution, reported by him from the Committee on Privileges and Elections, February 21, 1889:

Resolved, That the President of the Senate issue his warrant, directed to the Sergeant-at-Arms of the Senate, commanding him to arrest and to bring to the bar of the Senate the body of Thomas D. Fister, to show cause why he should not be punished for contempt, and in the meantime to keep the said Fister in his custody to await the further order of the Senate.

DECISIONS OF THE COURTS.

The following brief summary of the cases in which the courts have discussed the power of a legislative body to imprison for a contempt of its authority will show the trend of authority in this country and in England.

ANDERSON v. DUNN.*

UNITED STATES SUPREME COURT, 1821.

[6 Wheat. 204.]

This was an action for trespass for assault and battery and false imprisonment against the Sergeant-at-Arms of the House of Representatives. The House had adjudged the plaintiff guilty of a contempt and had directed the Speaker to issue his warrant to the Sergeant-at-Arms to arrest the plaintiff and bring him to the bar of the House to answer to the charge, and the defendant, as Sergeant-at-Arms, arrested the plaintiff and kept him in custody until he was reprimanded and discharged by the House. [*v. infra p.* 98.] The court held that the House had the power to punish for contempt by imprisonment, that the imprisonment must determine with the session, and that the House was to be presumed to have issued the warrant rightly.

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* This case, though not arising out of a contempt of a witness, is inserted here in order to show more clearly the tendency of the courts of the United States.

WICKELHAUSEN v. WILLETT.

NEW YORK SUPERIOR COURT—SPECIAL TERM, MARCH, 1860.

[10 Abb. Pr. 164.]

The action was an action against a sheriff for an escape. The defendant, as sheriff, held in his custody one Williamson, whom he had arrested on an execution issued in favor of the plaintiff. While Williamson was lawfully held by the sheriff and within the jail liberties of the city and county of New York, he was summoned by subpœna to give evidence before the House of Representatives, then in session, or before a committee thereof. Williamson did not obey the summons, and February 1, 1858, was adjudged guilty of a contempt by the House, which directed the Sergeant-at-Arms, by its warrant, to arrest Williamson and bring him before the House. Thereupon the Sergeant-at-Arms arrested Williamson within the jail liberties and took him to Washington. As soon as Williamson was released by the Sergeant-at-Arms he returned to the jail liberties.

Held by Hoffman, judge, that "the House has power to institute inquiries to order the attendance of witnesses," and "if there be a charge of contempt and breach of privilege and an order for the person charged to attend and answer it, and a willful disobedience of that order, the House has undoubtedly the power to cause the person charged to be taken into custody, and to be brought to the bar to answer the charge; and further that such House, and that alone, is the proper judge when those powers or either of them are to be exercised," when the fact of the jurisdiction of the subject-matter is undeniable.

Affirmed at the general term, May 1861 (12 Abb. Pr. 319), and by the court of appeals, December, 1864 (4 Abb., Ct. App. Dec. 596).

KILBOURN v. THOMPSON.

SUPREME COURT OF THE UNITED STATES, OCTOBER, 1880.

[103 U. S. 168.]

This was an action for false imprisonment brought by Hallet Kilbourn against the Sergeant-at-Arms, the Speaker, and four members of the House of Reprerentatives. The facts upon which it was founded are set forth at p. 63 above. These facts were pleaded in justification by the defendant Thompson, the Sergeant-at-arms. The other defendants made the same plea and added:

"And these defendants, state that they did not in any manner assist in the last-mentioned arrest and imprisonment of the said Kilbourn, nor were they in any way concerned in the same, nor did they order or direct the same, save and except by their votes in favor of the last above-named resolutions and order commanding the Speaker to issue his warrant for said arrest and imprisonment, and (save and except) by their participation as members in the introduction of and assent to said official acts and proceedings of said House, which these defendants did and performed as members of the said House of Representatives in the due discharge of their duties as members of said House, and not otherwise. * * * and at the said several times in this plea mentioned, and during all the time therein mentioned the said Congress of the United States was assembled and sitting, to-wit, at Washington aforesaid, in the county aforesaid, and these defendants were and are members of the House of Representatives, one of the Houses of said Congress, and as such members, in said participation in the action of the House as above set forth, voted in favor of said resolutions and orders as above set forth, and saving and excepting said participation in the action of the House, as set forth in the body of this plea, they had no concern or connection in any manner or way with said supposed trespasses complained of against them by the plaintiff; and this these defendants are ready to verify."

The plaintiff demurred to these special pleas, and his demurrer was overruled. The plaintiff thereupon sued out this writ of error.

Mr. Justice Miller, delivering the opinion of the court, says:

* * * * * * *

But we have found no better expression of the true principle on this subject than the language of Mr. Justice Hoar in the Supreme Court of Massachusetts, reported in 14 Gray, 226, in the case of Burnham *v.* Morrisey. That was a case in which the plaintiff was imprisoned under an order of the House of Representatives of the Massachusetts legislature for refusing to answer certain questions as a witness, and to produce certain books and papers. The opinion or statement, rather, was concurred in by all the court, including the venerable Chief Justice Shaw.

"The House of Representatives [says the court] is not the final judge of its own power and privileges in cases in which the rights and liberties of the subject are concerned, but the legality of its action may be examined and determined by this court. That House is not the Legislature, but only a part of it, and is therefore subject

in its action to the law in common with all other bodies, officers, and tribunals in the Commonwealth. Especially is it competent and proper for this court to consider whether its proceedings are in conformity with the constitution and laws, because living under a written constitution, no branch or department of the government is supreme, and it is the province and duty of the judicial department to determine in cases regularly brought before them, whether the powers of any branch of the government, and even those of the Legislature in the enactment of laws, have been exercised in conformity to the Constitution, and if they have not to treat their acts as null and void. The House of Representatives has the power under the constitution to imprison for contempt, and the power is limited to the cases expressly provided for by the constitution, or to cases where the power is necessarily implied from these constitutional functions and to the proper performance of which it is essential."

In this statement of the law, and in the principles there laid down, we fully concur. We must, therefore hold, notwithstanding what is said in the case of Anderson *v.* Dunn, that the resolution of the House of Representatives finding Mr. Kilbourn guilty of contempt, and the warrant of its Speaker for his commitment to prison, are not conclusive in this case, and in fact are no justification, because, as the whole plea shows, the House was without authority in the matter.

It remains to consider the matter special to the other defendants set out in their plea, which claims the protection due to their character as members of the House of Representatives. In support of this defense they allege that they did not in any manner assist in the arrest of Kilbourn or his imprisonment, nor did they order or direct the same, except by their votes and by their participation as members in the introduction of and assent to the official acts and proceedings of the House, which they did and performed as members of the House in the due discharge of their duties, and not otherwise.

As these defendants did not make the actual assault on the plaintiff, nor personally assist in arresting or confining him, they can only be held liable on the charge made against them as persons who had ordered or directed in the matter, so as to become responsible for the acts which they directed.

* * * * * * *

In this, as in other matters which have been pressed on our attention, we prefer to decide only what is necessary to the case in hand, and we think the plea set up by those of the defendants who were members of the House is a good defense, and *the judgment of the court overruling the demurrer to it and giving judgment for those defendants is affirmed.* As to Thompson, *the judgment is reversed and the case remanded for further proceedings.*

[This case is followed and approved "In the Matter of the Application of the Pacific Railway Commission (32 Fed. Rep. 242), in the Circuit Court for the Northern District of California, 1887." Field and Sawyer, judges.]

THE PEOPLE v. KULER.

NEW YORK COURT OF APPEALS, OCTOBER, 1885.

[99 N. Y. 463, 478.]

RAPALLO, J. (commenting on Anderson *v.* Dunn and Kilbourn *v.* Thompson):

"It must be borne in mind that the cases cited did not arise under any act of Congress authorizing either House to punish contumacious witnesses, for there is no such act. The question was, whether a general power to punish contempts was inherent in Congress, as necessary to the exercise of its functions, independent of any statute. That such a power could be exercised to compel the attendance of witnesses in certain cases was conceded. Whether it existed in cases of investigations properly instituted for purposes of legislation was left an open question. So far as the statutes of the United States were concerned, a different course of proceeding was prescribed. The act of January 24, 1857 (c. 19), provided that any person summoned as a witness before either House or a committee thereof, and refusing to appear or to answer any question pertinent to the matter in consideration, should, in addition to the pains and penalties then existing, be liable to indictment and punishment as and for a misdemeanor, and it was made the duty of the President of the Senate to certify the fact to the district-attorney for the District of Columbia, who was required to lay the matter before the grand jury. This act was incorporated, with modifications, in the Revised Statutes of the United States (§§ 102, 104). The other pains and penalties alluded to must have had reference to the supposed power to punish for contempt. But if, as contended, no such power can be exercised by Congress under the limited authority delegated to it by the Constitution, the power *could not be* created and conferred by any act of Congress."

ENGLISH CASES.

The English authorities on this subject show a marked change of opinion. The earlier cases sustain the power of the House of Commons on the two grounds of necessity and of its former character as a court, while the later cases appear to give much the greater weight to the fact that the House has long enjoyed the privilege and is therefore entitled to it as a prescriptive right. It is to be remarked, however, that all the later cases in which the courts of Westminster have shown so strong an inclination to curtail the privilege, the question was not of the powers of the supreme legislative body, but of the right of a colonial legislature, and that the court seem to have been influenced very largely by an analogy, more fanciful than real, to a municipal corporation, an analogy which, whatever may be its merit when applied to the acts of the legislature of a dependent colony, can have no bearing on the question of the powers of a sovereign legislature like Parliament or Congress or either House.

Indeed, this is virtually admitted by the Privy Council, for while showing the most unreasoning jealousy of the colonial legislature, they never question the right of the Houses of Parliament.

REG. v. PATY.

[2 Ld. Raym. 1105.]

The question was raised under a writ of habeas corpus. Paty and four others were imprisoned by order of the House of Commons for bringing an action against the constables of Aylesbury, who refused to allow their votes in an election for members of the House, "in high contempt of the jurisdiction and in breach of the known privileges of this House." The court remanded the prisoners, *holding* that the question of the privilege of Parliament was to be determined by Parliament, which alone was cognizant of the *lex parliamenti*, and that being a court its action was not subject to review by any other of the superior courts of the Kingdom. Lord Holt, C. J., dissented. In very vigorous terms he ridicules the notion of a *lex parliamenti* known only to Parliament, and contends that it is the right of the court to examine the question and decide whether the privilege claimed is a privilege or not.

BRASS CROSBY'S CASE.

[3 Wils. 188.]

Crosby, Lord Mayor of London, had imprisoned the messenger of the House of Commons while acting under the orders of the House. The Lord Mayor was thereupon adjudged by the House guilty of a contempt, and committed to the Tower by virtue of the Speaker's warrant issued in pursuance of the order of the House, there to remain "during the pleasure of the House." He was brought before the court on *habeas corpus* to the lord lieutenant of the Tower. The prisoner was not released.

De Grey, C. J., cites Co. 4, Inst. 23, as authority for the power of commitment in the House, and states: "This power of commitment must be inherent in the House of Commons from the very nature of its existence and therefore is a part of the law of the land; they certainly always could commit in many cases; in matters of elections they can commit sheriffs, mayors, officers, witnesses, etc., and it is now agreed that they can commit generally for all contempts. All contempts are either punishable in the court contemned or in some higher court; now the Parliament has no superior court, therefore the contempts against either House can only be punished by themselves. * * * Indeed it seems that they must have the power to commit for any crime, because they have the power to impeach for any crime."

THE KING v. FLOWER.

[8 T. R. 314.]

Habeas corpus to the keeper of Newgate. The House of Lords decided that Flower was guilty of a breach of privilege in publishing a libel against one of their number, fined him £100, and condemned him to imprisonment in Newgate for six months, and until he should pay the fine. The prisoner was remanded.

Lord Kenyon, C. J., *held* that the House of Lords was a court of record when sitting in a judicial capacity, as in the present case (though it was true it was not a court of record when sitting in a legislative capacity); that all courts had the power of fining in a summary manner, and that therefore the House of Lords had. "There is nothing unconstitutional in the House proceeding in this mode for breach of privilege, and unless we wish to assist in the attempt that is made to overset the law of Parliament and the constitution we must remand the defendant."

Grose, J.: "When the House of Commons, and the same may be said of the House of Lords, adjudge anything to be a contempt or breach of privilege, their adjudication is a conviction and their commitment in consequence is execution; and no court can discharge or bail a person that is in execution by the judgment of another court."

BURDETT v. ABBOTT.

[14 East 1.]

The House of Commons voted that the plaintiff, one of its members, was guilty of libel in publishing a letter and therefore guilty of a breach of the privilege of the House, and ordered him committed to the Tower. The Sergeant-at-Arms, acting under the warrant of the Speaker, forced the door of the plaintiff's dwelling, arrested him, and conveyed him to the Tower, where he was confined. The action was trespass against the Speaker. Lord Ellenborough held that the right of the two Houses of Parliament to protect themselves against injuries and affronts offered the aggregate bodies was "an essential right necessarily inherent in the supreme legislature of the Kingdom," and that "the right of self-protection implies, as a consequence, the right to use the necessary means for rendering such self-protection effectual," and that Parliament was not bound to await the "comparatively tardy result of a prosecution in the ordinary course of law." Lord Ellenborough rests his judgment on the additional ground that the power to commit had always been exercised by the House ever since its constitution as a separate body.

The following dictum is of interest: "Upon this subject I will only say that if a commitment appeared to be for a *contempt* of the House of Commons *generally* I would, neither in the case of that court nor of any other of the superior courts, inquire further; but if it did not *profess* to commit *for a contempt*, but for some matter appearing on the return which could by no reasonable intendment be considered as a contempt of the court committing but a ground of commitment palpably and evidently arbitrary, unjust, and contrary to every principle of positive law or national justice; I say that in the case of such a commitment (if it ever should occur, but which I can not possibly anticipate as ever likely to occur) we must look at it and act upon it as justice may require from whatever court it may profess to have proceeded."

Grose and Bayley, JJ., concurred.

See also Burdett *v.* Coleman (14 East 163), an action against the Sergeant-at-Arms.

BEAUMONT v. BARRETT.

[1 Moo. P. C. 59.]

Before Sir Launcelot Shadwell, Baron Parke, Mr. Justice Bosanquet, and Thomas Erskine. An appeal from the court of errors in Jamaica, overruling a demurrer to pleas in justification in an action of trespass for false imprisonment. The House of Assembly of Jamaica voted that certain passages in a newspaper were libelous and their publication a breach of the privilege of the House. The appellant, the publisher of the paper, who admitted at the bar of the House that he wrote the objectionable paragraphs and directed their publication, refusing to make any statement in extenuation of the offense, was ordered by the Assembly to be imprisoned. He resisted, and the Sergeant-at-Arms was obliged to have the assistance of constables to execute the order. He was imprisoned from the 5th to the 12th of December, 1833. On his release he brought this action.

Parke, B., delivering the opinion of the Judicial Committee affirming the decision of the court below, stated: "It would appear to be inherent in every assembly that possesses a supreme legislative authority, to have the power of punishing contempts, and not merely such as are a direct obstruction to its due course of proceeding, but such also as have a tendency to produce such obstruction in the same way as courts of record, may not only remove or punish persons who actually are interrupting their functions, but may also repress those who directly impede the administration of justice by disparaging and weakening their authority."

KIELLEY v. CARSON.

[4 Moo. P. C. 63.]

(Present, Lord Lyndehurst, Lord Brougham, Lord Denman, Lord Abinger, Lord Cottenham, Lord Campbell, Sir Launcelot Shadwell, V. C., Lord Wynford, chief justice of the Common Pleas, Baron Parke, Mr. Justice Erskine, and the Rt. Hon. Dr.

Lushington.) Appeal from the supreme court of Newfoundland: The appellant was a surgeon in St. Johns. Kent, one of the defendants, a member of the House of Assembly, in his place in the House made some remarks on the conduct of a hospital with which the appellant was connected. August 6, 1838, Kent reported to the Assembly that the appellant had used threatening language to him on the street and had declared that his privilege should not protect him. The next day the appellant was brought to the bar of the House in custody of the Sergeant-at-Arms and asked to explain. Instead of making an explanation he addressed still more insulting language to Kent from his place at the bar. The House voted that this was "an aggravation and iteration of the contempt offered to the House" of which it had already voted that "if passed unnoticed would be a sufficient cause for deterring a member from acting with that independent conduct necessary for every assembly." August 9, Kielley, who was still in the custody of the Sergeant-at-Arms, was directed to apologize, and on his refusal was confined in the common jail by order of the assembly. The next day he was released on writ of habeas corpus. Thereupon he brought this action against the Speaker, Sergeant-at-Arms, and several members. The usual pleas in justification were made and were held good by the colonial court, which ordered judgment for the defendants.

The case was twice argued, the last time May 23, 1842. January 11, 1843, Baron Parke delivered the judgment of the court. It held that the question whether the House of Assembly could commit for contempt committed in the face of it did not arise in this case, that the House had not "the power to arrest with a view to adjudication on a complaint of contempt committed out of its doors," and reversed the judgment of the court below. Baron Parke, in the course of the opinion, stated that the Crown did not give the power when it created the legislature unless it was an inseparable incident of such legislature. "To the full extent of every measure which it may be really necessary to adopt to secure the free exercise of their legislative functions they are justified in acting by the principle of the common law. But the power of punishing anyone for past misconduct as a contempt of its authority and adjudicating upon the fact of such contempt, and the measure of punishment as a judicial body, responsible to the party accused, whatever the real facts may be, is of a very different character and by no means essentially necessary for the exercise of its functions by a local legislature, whether representative or not. All these functions may be well performed without extraordinary power and with the aid of the ordinary tribunals to investigate and punish contemptuous insults and interruptions." He goes on to hold that the power of the House of Commons rests on "ancient usage and prescription," and draws the distinction between the House of Commons and the Assembly that the latter is no court of record and has no judicial functions whatever. Commenting on his decision in Beaumont *v.* Barrett, he says: "Though it clearly expressed that the power was incidental to every legislative assembly that was not the only ground on which that judgment was vested and therefore was in some degree extrajudicial; but besides, it was stated to be and was founded entirely on the dictum of Lord Ellenborough in Burdett *v.* Abbott, which dictum we all think can not be taken as authority for the abstract proposition that every legislative body has the power of committing for contempt. The observation was made by his lordship with reference to the peculiar powers of Parliament, and ought not, we all think, to be extended further."

HOWARD v. GOSSETT.

[10 Q. B. 359.]

The defendant in an action for trespass for assault and false imprisonment pleaded the Speaker's warrant in justification. The majority of the Court of Queen's Bench held the warrant insufficient, as it did not state the cause of the arrest. Mr. Justice Williams dissented. In the Exchequer Chamber, Parke, B., delivered the opinion, holding that it could not be doubted that the House had the power to institute inquiries and order the attendance of witnesses, and if there be a charge of contempt or breach of privilege and an order for the person charged to attend and answer it and a willful disobedience of the order, "the House has undoubtedly the power to cause the person charged to be taken into custody and to be brought to the bar to answer the charge, and, further, the House, and the House alone, is the proper judge when these powers, or either of them, are to be exercised." The court held, further, that the warrant must be taken to be sufficient, as it was to be judged as a warrant from a superior court and did not appear on its face to be beyond the jurisdiction of the court.

This case has been approved and followed in Fenton *v.* Hampton, 11 Moo. P. C. 347 in which the question was of the power of the Council of Van Dieman's Land to punish by imprisonment a witness who refused to appear before its select com-

mittee. It was again approved in Doyle *v.* Falconer, L. R., 1 P. C. 328, in which the offender was a member of the House of Assembly of Dominica. The head note is as follows:

"The Legislative Assembly of Dominica does not possess the power of punishing a contempt, though committed in its presence and by one of its members; such authority does not belong to a Colonial House of Assembly by analogy to the *lex et consuetudo Parliamenti*, which is inherent in the two Houses of Parliament in the United Kingdom, or to a court of justice, which is a court of record, a Colonial House of Assembly having no judicial functions.

When, therefore, a member of the Lower House of Assembly of Dominica, who had been taken into custody by the Sergeant-at-Arms and committed to the common gaol, by virtue of the Speaker's warrants, for a contempt committed in the face of the assembly, brought an action for trespass and false imprisonment, and obtained damages; it was held by the Judicial Committee (affirming the judgment of the Court of Common Pleas of the Island on demurrer to pleas of justification) that the House of Assembly had no such power to commit and punish as had been assumed, and the Speaker and Members were liable.

MEMBERS OF CONGRESS AS WITNESSES.

It is not customary for committees of one House to summon members whose information may be desired to appear before them. When the testimony of a member of the other House is desired, a resolution of the House making the inquiry is sent to the other House asking that the member be allowed to appear before the committee conducting the investigation and testify. The permission is usually granted. An officer of one House is sometimes summoned to appear before a committee of the other, but he attends only on leave of the House whose officer he is.

MESSRS. STURGIS, DEVENPORT, AND MORROW.

4 J. of S., 259.] APRIL 1, 1808.

[The Senate in investigating the conduct of John Smith, a Senator from Ohio, an alleged associate of Aaron Burr, assigned seats to Mr. Smith's counsel.]

Mr. Key (of counsel for Mr. Smith) requested the attendance of Messrs. Davenport, Morrow, and Sturgis, members of the House of Representatives of the United States, to give evidence in the case; also, that a subpœna issue to Gen. Wilkinson to attend for that purpose.

Mr. Key proceeded to read certain depositions taken on behalf of Mr. Smith, which were objected to as not within the rule; and [on motion it was agreed that he could continue to read the depositions "the informality notwithstanding."]

Ib., 259.] APRIL 2, 1808.

Motion submitted for consideration.

Resolved, That a message be sent to the House of Representatives requesting that Messrs. Sturgis, Davenport, and Jeremiah Morrow, members of the House, be permitted to attend the Senate to give evidence as to the characters of sundry witnesses in the case of John Smith, a Senator from the State of Ohio.

[Ib., 260. At the request of Mr. Smith, Messrs. Morrow and Davenport and others of the House "were severally sworn and gave testimony." Ib., 261. "At the request of Mr. Smith" three other members were sworn.]

DAVID DAGGETT AND WILLIAM HUNTER.

2d sess. 15th Cong., J. of S., 195.] JANUARY 27, 1819.

A resolution from the House of Representatives respectfully requesting the Senate to permit two of its members to attend, as witnesses, a select committee of the House, was read a second time and considered.

Whereupon,

On motion by Mr. Burrill,

Resolved, That the Hon. David Daggett and William Hunter, members of the Senate, have leave to attend the committee of the House of Representatives, appointed to inquire into the official conduct of William P. Van Ness and Matthias B. Tallmadge, to be examined touching the subject of said inquiry, agreeably to the resolution of said House, passed the 26th instant, requesting that such leave may be granted.

Ordered, That the Secretary notify the House of Representatives accordingly.

NATHAN SANFORD.

1st sess. 14th Cong., J. of S., 407.] APRIL 8, 1816.

A message from the House of Representatives by Mr. Dougherty, their Clerk:

Mr. PRESIDENT: The House of Representatives have passed a resolution requesting the Hon. Nathan Sanford, a member of the Senate, may be permitted to attend before the committee of the House of Representatives, appointed to inquire into the official conduct of Judge Tallmadge, to be examined touching the subjects contained in a report relating to the alleged misconduct of Judge Tallmadge, in his office as one of the judges of the district court for the State of New York.

Ib., 410.] APRIL 9, 1816.

The Senate proceeded to consider the resolution of the House of Representatives requesting the attendance of the Hon. Nathan Sanford, a member of the Senate, before the committee of that House, for the purpose of giving his testimony in the matter under examination of said committee, concerning the alleged misconduct of Matthias B. Tallmadge, one of the judges of the district court of New York.

Whereupon

Mr. King submitted the following motion for consideration:

Resolved, That the Senate, in compliance with the resolution of the House of Representatives of yesterday, do allow the attendance of the Hon. Nathan Sanford, a member of this House, before the committee of the House of Representatives, for the purpose of giving his testimony in the matter under examination of the said committee concerning the alleged misconduct of Matthias B. Tallmadge, one of the judges of the district court for the State of New York.

Ib., 434.] APRIL 12, 1816.

The Senate resumed the consideration of the motion submitted the 9th instant by Mr. King, which was amended and agreed to as follows:

Resolved, That the Senate, in compliance with the resolution of the House of Representatives of the 8th instant, do allow the attendance of the Hon. Nathan Sanford, a member of this House, before a committee of the House of Representatives for the purpose of giving his testimony in the matter under examination of said committee concerning the alleged misconduct of Matthias B. Tallmadge, one of the judges of the district court for the State of New York.

Ordered, That the Secretary notify the House of Representatives accordingly.

FELIX GRUNDY ET AL.

1st sess. 22d Cong., J. of S., 245.] APRIL 19, 1832.

A message from the House of Representatives by Mr. Clarke, their Clerk:

Mr. PRESIDENT: The House of Representatives have passed the following order:

Ordered, That a message be sent to the Senate, informing the Senate that the House of Representatives request the attendance of Felix Grundy, Alexander Buckner, Thomas Ewing, and John Tipton, members of the Senate, to give evidence before the House of Representatives, now sitting on the trial of Samuel Houston, accused of a breach of the privileges of the House of Representatives by assaulting and beating William Stanberry, a member of that House.

The said order was read, and,

On motion by Mr. Webster,

Ordered, That the Senators named therein have leave to attend the House of Representatives accordingly.

WILLIAM ALLEN.

1st sess. 29th Cong., J. of S., 50.] DECEMBER 17, 1845.

Mr. Allen having stated that a writ of subpœna had been served upon him to attend as a witness in a cause pending before a court of the United States for the District of Columbia,

On motion by Mr. Webster,

Ordered, That leave be given to Mr. Allen to attend accordingly.

IN IMPEACHMENT PROCEEDINGS.

2d sess. 40th Cong., J. of S., 422.] MAY 27, 1868.

Mr. Buckalew submitted the following resolution for consideration:

Resolved, as the sense of the Senate, That any enforced attendance of a member of the Senate before a committee of the House of Representatives, to be examined as

a witness upon any question or matter relating to the impeachment trial, would be a flagrant breach of the privileges of the Senate, and that any voluntary attendance of a Senator before such committee for such purpose would be highly improper.

[The resolution was laid over.]

STANLEY MATTHEWS.

2d sess. 45th Cong., J. of S., 747.] JUNE 17, 1878.

The House of Representatives has passed the following resolutions, in which it requests the concurrence of the Senate:

Resolved, That the House of Representatives do request the Senate to give leave to the Hon. Stanley Matthews, Senator from the State of Ohio, to attend before the committee of the House of Representatives now charged with the investigation of the frauds in the electoral vote of the States of Louisiana and Florida, to give such evidence of facts concerning the subject-matter of said investigation as may be in his knowledge or possession, as he may be required.

Ib. J. of S., 762.] JUNE 18, 1878.

The resolution of the House of Representatives requesting the Senate to grant leave to the Hon. Stanley Matthews to attend before a committee of the House was read, when Mr. Wallace submitted the following resolution:

Resolved, That the Senate, in compliance with the resolution of the House of Representatives of yesterday, do allow the attendance of Hon. Stanley Matthews, a member of this House, before the committee of the House of Representatives now charged with the investigation of alleged frauds in the electoral vote of the States of Louisiana and Florida, for the purpose of giving such evidence of facts concerning the subject-matter of said investigation as may be in his knowledge or possession.

Resolved, That the Secretary notify the House of Representatives accordingly.

Ordered, That the resolutions be referred to the Committee on Privileges and Elections.

ASSISTANT DOORKEEPER.

1st sess. 22d Cong., J. of S., 370.] JUNE 27, 1832.

The following motion, submitted by Mr. Holmes, was considered by unanimous consent:

Resolved, That the Assistant Doorkeeper of the Senate be permitted to attend as a witness before a committee of the House of Representatives, agreeably to his summons.

On motion by Mr. Clay,

Ordered, That said motion be laid on the table.

[Cong. Deb. 1st sess. 22d Cong., 1127.]

SECRETARY OF THE SENATE.

3d sess. 27th Cong., J. of S., 60.] DECEMBER 28, 1842.

The President *pro tempore* having stated to the Senate that the Secretary of the Senate had been served with a summons to appear before the circuit court for the District of Columbia, and to bring with him a paper on the files of his office, to be used as evidence in a cause pending before the court, and the Secretary desired the directions of the Senate thereupon.

Mr. Berrien submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of the Senate have leave to take from the files of the Senate the antibank memorial specified in the *subpœna duces tecum*, issued from the circuit court of the District of Columbia, in the case of Henry Addison at suit of R. White, this day served upon him, for the purpose of being exhibited as evidence in the said case.

2d sess. 45th Cong., J. of S., 634.] JUNE 7, 1878.

The President *pro tempore* laid before the Senate a letter of the Secretary of the Senate, stating that he had been served with a subpœna to appear before a special committee of the House of Representatives and to bring with him certain books and papers in his custody as Secretary of the Senate, and asking instructions as to his duty in this and in similar cases that may hereafter arise;

Whereupon

Mr. Edmunds submitted the following order, which was considered by unanimous consent, and agreed to:

Ordered, That, reserving all questions touching the regularity of the action of the committee of the House of Representatives in calling for the papers, the Secretary of the Senate attend before the committee of the House of Representatives mentioned in the letters of the Secretary, with the papers desired by said committee, and submit said papers to the examination of said committee from time to time, according to its convenience, retaining, however, the custody of said papers.

[Record, 2d sess. 45th Cong., 4228–4232.]

TESTIMONY OF J. E. ANDERSON.

3d sess. 45th Cong., J. of S., 41.] DECEMBER 10, 1878.

Mr. Allison, from the select committee to inquire into certain matters touching the late Presidential Election in Louisiana, reported the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the House of Representatives be respectfully requested to transmit to the Senate a copy of the testimony of one James E. Anderson relating to the Hon. Stanley Matthews, a member of the Senate in the State of Ohio, understood to have been taken before one of the committees of the House of Representatives.

3d sess. 45th Cong., J. of S., 172.] JANUARY 27, 1879.

I am directed to communicate to the Senate, in compliance with its request of December 10, 1878, a copy of the testimony of James E. Anderson, given before the Committee of the House of Representatives on investigation of alleged frauds in the electoral vote of the States of Louisiana and Florida.

CONTEMPTS.

LIBELLOUS PUBLICATIONS.

WILLIAM DUANE.

William Duane, publisher of the Aurora, a newspaper printed in Philadelphia, was summoned to appear before the Senate on a charge of contempt for publishing a libellous article on the Senate. Duane asked to be heard by counsel and the Senate agreed that counsel should be heard in regard to the charge and in excuse and extenuation of his offense. Duane, considering these restrictions a practical denial of his rights, refused to appear. The Senate adjudged him in contempt for refusing to obey the order to attend the Senate, and ordered the President of the Senate to issue a warrant for his arrest. Congress adjourned May 14, 1800, without acting further in the matter, except to request the President of the United States to cause Duane to be prosecuted for the publication referred to.

3 J. of S., 51.] MARCH 18, 1800.

The Senate took into consideration the report of the Committee on Privileges on the measures that it will be necessary to adopt in relation to the publication in the newspaper, printed in the city of Philadelphia, on Wednesday morning, the 19th of February last, called the "General Advertiser" or "Aurora," and

On motion to adopt the first resolution reported, it was agreed to divide the motion, and that the question be taken on the following words:

Resolved, That such publication contains assertions, and pretended information, respecting the Senate, and the committee of the Senate, and their proceedings, which are false, defamatory, scandalous, and malicious; tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States.

On the question to adopt this part of the resolution reported by the committee,

It passed in the affirmative—yeas 20, nays 8.

Ib., 52.] MARCH 19, 1800.

The Senate resumed the consideration of the report of the Committee on Privileges on the measures proper to adopt in relation to the publication in the newspaper called the Aurora on the 19th of February last; and it was agreed to amend the second part of the first resolution reported as follows: "And that the said publication is a high breach of the privileges of this House," and

On the question to agree thereto as amended,

It was determined in the affirmative—yeas 17, nays 11.

Ib., 52.] MARCH 20, 1800.

The Senate resumed, etc.

* * * * * * *

So the report of the committee was adopted as follows:

Whereas on the 19th day of February, now last past, the Senate of the United States being in session, in the city of Philadelphia, the following publication was made in a newspaper, printed in said city of Philadelphia, called the General Advertiser or Aurora, viz:

* * * * * * *

Resolved, That William Duane, now residing in the city of Philadelphia, the editor of said newspaper called the General Advertiser or Aurora, be, and he is hereby, ordered to attend at the bar of the House, on Monday, the 24th day of March, instant, at 12 o'clock, at which time he will have an opportunity to make any proper defense for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information; and the Senate will then proceed to take further order on the subject; and a copy of this and the foregoing resolutions, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, Sergeant-at-Arms for the said Senate, and

left by the said Sergeant-at-Arms with the said William Duane, or at the office of the Aurora, on or before the 22d day of March, instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution.

It passed in the affirmative—yeas 18, nays 10.

Ib., 55.] MARCH 22, 1800.

Mr. Dayton, from the Committee on Privileges, to whom it was referred to prepare and lay before the Senate a form of proceeding in the case of William Duane, reported in part; which report was read, amended, and agreed to, as follows:

When William Duane shall present himself at the bar of the House, in obedience to the order of the 20th instant, the President of the Senate is to address him as follows:

First. William Duane: You stand charged of the Senate of the United States, as editor of a newspaper called the General Advertiser or Aurora, and having published in the same, on the 19th day of February now last passed, false, scandalous, defamatory, and malicious assertions and pretended information, respecting the said Senate and their proceedings, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and, therefore, to have been guilty of a high breach of privileges of this House.

Then the Secretary shall read the resolutions passed the 20th instant, with the preamble; after which the President is to proceed as follows:

First. Have you anything to say in excuse or extenuation for said publication?

Secondly. If he shall make no answer the Sergeant-at-Arms shall take him into custody and retire with him from the Senate Chamber until the Senate shall be ready for a decision, at which time the Sergeant-at-Arms shall again set him at the bar of the House, and the President of the Senate is to pronounce to him the decision.

Thirdly. If he shall answer he is to continue at the bar of the House until the testimony (if any be adduced) shall be closed and then he shall retire while the Senate are deliberating on the case; and when a decision is agreed upon the said Duane, being notified of the time by the Sergeant-at-Arms, verbally, or by written notice left at his office, shall appear at the bar of the House, and the President of the Senate is to pronounce to him the decision.

Ib., 56.] MARCH 24, 1800.

The Vice-President communicated a letter signed William Duane, requesting to be heard by counsel, and have process awarded to compel the attendance of witnesses in his behalf, on the summons served on him the 22d instant, for a high breach of privileges of the Senate; which letter was read.

A motion was made that William Duane be permitted to be heard by counsel, agreeably to his request; and after debate the said William Duane appeared at the bar of the House agreeably to the summons of the 22d instant; and return thereon having been made in the words following:

CITY OF PHILADELPHIA, *March 21.*

Then I, the subscriber, Sergeant-at-Arms of the Senate of the United States, left a true and attested copy of the within at the office of the Aurora.

JAMES MATHERS.

And the charge against the said William Duane having been read he repeated his request to be heard by counsel. (Duane was ordered to withdraw, and after some debate it was)

Resolved, That William Duane having appeared at the bar of the Senate, and requested to be heard by counsel, on the charge against him for a breach of the privileges of the Senate, he be allowed the assistance of counsel while presently attending at the bar of the Senate, who may be heard in the denial of any facts, charged against said Duane, or in excuse or extenuation of his offense.

A motion was made that it be an instruction to the Committee on Privileges to report in what manner witnesses shall be compelled to attend the Senate in support of the charge against William Duane and in his defense against that charge;

And after debate the further consideration thereof was postponed.

On motion,

Resolved, That a copy of the resolution last agreed to be sent to William Duane, and at the same time he be ordered to attend at the bar of the House at 12 o'clock on Wednesday next.

Ib., 58.] MARCH 26, 1800.

The Vice-President communicated a letter signed William Duane stating that he had received "an authenticated copy of the resolution of Monday last in his case," and *enclosing certain papers,* stated to be a correspondence between him and his intended

counsel, marked A, B, and C, and that he finds himself "deprived of all professional assistance under the restrictions which the Senate have thought fit to adopt. He therefore thinks himself bound by the most sacred duties to decline any further voluntary attendance upon that body and to leave them to pursue such measures in this case as in their wisdom they may deem meet," and the letter was read.

* * * * * * *

On motion,

Ordered, That the Sergeant-at-Arms, at the bar of the House, do call William Duane, and the said William Duane did not appear.

Whereupon, on motion,

Resolved, That as William Duane has not appeared at the bar of this House in obedience to the order of the 24th instant, and has addressed a letter to the President of the Senate, which has been read this morning, in which he refuses any further attendance, his letter be referred to the Committee on Privileges to consider and report thereon.

On motion,

The Senate resumed the consideration of the report of the Committee on Privileges of the 25th instant.

And on the question to agree to the first resolution amended as follows:

Resolved, That all testimony shall be taken by the Committee on Privileges, who are hereby authorized to send for persons, papers, and records, and compel the attendance of witnesses, which may become requisite for the execution of their commission.

It passed in the affirmative—yeas 18, nays 11.

On motion, the fourth resolution was adopted, as follows:

Resolved, That all testimony taken by said committee shall be reported to the Senate, and kept on file by the Secretary.

Ib. 59.] MARCH 27, 1800.

Mr. Dayton, from the Committee on Privileges, to whom was referred the letter of William Duane on the 26th instant, made report as follows:

Resolved, That William Duane, editor of the General Advertiser, of Aurora, having neglected and refused to appear at the bar of this House at 12 o'clock, on the 26th day of March instant, pursuant to an order of the 24th instant, of which order he had been duly notified, and having sent the following letter to the President of the Senate, which has been communicated to the Senate, viz:

"*To the President of the Senate:*

"SIR: I beg of you to lay before the Senate these acknowledgments of my having received an authenticated copy of their resolutions on Monday last in my case. Copies of these resolutions I transmitted to Messrs. Dallas and Cooper, my intended counsel, soliciting their professional aid. A copy of my letter is inclosed, marked A. Their answers I have also the pleasure to inclose, marked B and C. I find myself in consequence of these answers deprived of all professional assistance under the restrictions which the Senate have thought fit to adopt. I therefore think myself bound by the most sacred duties to decline any further voluntary attendance upon that body and leave them to pursue such measures in this case as, in their wisdom, they may deem meet.

"I am, sir, with perfect respect,

"WILLIAM DUANE."

is guilty of a contempt of such order, and of this House, and that for said contempt, he, the said William Duane, be taken into custody of the Sergeant-at-Arms attending this House, and to be kept subject to the further orders of the Senate.

(This resolution was agreed to—yeas 16, nays 11. On motion to strike out the words "and all marshals, deputy marshals, and civil officers of the United States, and every other person, are required to be attending and assisting you in the execution thereof" was lost—yeas 10, nays 19; and the resolution as reported by the committee was passed—yeas 18, nays 11—as follows:

Resolved, That a warrant issue, signed by the President of the Senate, in the following form, viz:

UNITED STATES,

27th day of March, 1800, ss:

Whereas the Senate of the United States on the 18th day of March, 1800, then being in session in the city of Philadelphia, did resolve that a publication in the General Advertiser, of Aurora, a newspaper printed in the city of Philadelphia, on Wednesday, the 19th day of February, then last passed, containing assertions and

pretended information respecting the Senate, and committee of the Senate, and their proceedings, which were false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and that the said publication was a high breach of the privileges of the House.

And whereas the Senate did the further resolve and order, that the said William Duane, resident in the said city, and editor of the said newspaper, should appear at the bar of the House on Monday, the 24th day of March, instant; that he should then have all proper opportunity to make any proper defense for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information;

And whereas the said William Duane did appear on said day at the bar of the House, pursuant to said order, and requested counsel, and the Senate by their resolution on the 24th day of March, instant,

Resolved, That William Duane having appeared at the bar of the Senate and requested to be heard by counsel on the charge against him for a breach of the privileges of the Senate, he be allowed the assistance of counsel while presently attending at the bar of the Senate, who may be heard in the denial of any facts charged against said Duane, or in excuse or extenuation of his offense;

And whereas said William Duane, in contempt of said last-mentioned order, did neglect and refuse to appear at the bar of the Senate, at the time specified therein; and the Senate of the United States on the 27th day of March, did thereupon resolve that the said William Duane was guilty of a contempt of said order and of the Senate, and that for said contempt, he, the said William Duane, should be taken into custody of the Sergeant-at-Arms attending the Senate, to be kept for their further orders; all which appears by the Journals of the Senate of the United States, now in session in the said city of Philadelphia:

These are therefore to require you, James Mathers, Sergeant at-Arms for the Senate of the United States, forthwith to take into your custody the body of the said William Duane, now resident in the said city of Philadelphia, and him safely to keep, subject to the further order of the Senate; and all marshals, deputy marshals, and civil officers of the United States, and every other person, are hereby required to be attending and assisting to you in the execution thereof; for which this shall be your sufficient warrant.

Given under my hand this 27th day of March, 1800.

THOMAS JEFFERSON,
President of the Senate of the United States.

Ib., 93] MAY 10, 1800.

Mr. Bingham presented a remonstrance and petition of a number of "citizens of the Republic of America, resident in the city and county of Philadelphia," praying the Senate "to reconsider the resolutions by them adopted on the subject of privilege in the case of William Duane;" which was read.

[Ib., 97. Another remonstrance was presented, but was refused a reading—yeas 7, nays 12.—May 14, 1800.]

Ib., 98.] MAY 14, 1800.

Resolved, That the President of the United States be requested to instruct the proper law officer to commence and carry on the prosecution against William Duane, the editor of a newspaper called the Aurora, for certain false, defamatory, scandalous, and malicious publications in said newspaper, of the 19th of February last passed, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States.

(Passed—yeas 13, nays 4.)

In the instances given below, reporters of newspapers have been deprived of the privilege of the floor or gallery, as the case may be, on account of publications showing want of due respect to the Senate or its members.

EDITORS OF THE UNION.

The editors of the Union were deprived of the privilege of admission to the floor for publishing a libel on the Senate.

2d sess. 29th Cong., J. of S., 182.] FEBRUARY 11, 1847.

Mr. Yulee submitted the following resolutions and asked for their consideration at this time:

Resolved, That the editors of the Union newspaper, published in the city of Wash-

ington, having in the publication contained in a number of that paper dated 9th of February, issued and uttered a public libel upon the character of this body, they be excluded from the privilege of admission to the floor of the Senate.

Be it further resolved, That the reporter of the proceedings of the Senate of the 8th of February, in relation to the bill entitled "An act to raise for a limited time, an additional military force, and for other purposes," is partial and unjust to this body; and that the reporter for that paper be excluded for the residue of the session from a place in the gallery of the Senate.

[February 13, 1847, the second resolution having been withdrawn, the first was agreed to—yeas 27, nays 21 (ib., 188). Cong. Globe, 2d sess. 29th Cong., 381.]

DAILY TIMES.

Charges of corruption in the Senate were published in the Washington Daily Times. A select committee was appointed to investigate them, found that they were "utterly and entirely false," and recommended that the editor and publisher of the Times and their reporters be excluded from the gallery. The recommendation was adopted March 16, 1846. January 27, 1848, the privilege was restored to Mr. Dow, the editor.

1st sess. 29th Cong., J. of S., 194.] MARCH 16, 1846.

Mr. Benton, from the select committee appointed to inquire and report what measures, if any, are proper to vindicate the character and honor of the Senate against the charges of corruption published in a newspaper printed in Washington City, called the Daily Times, on the 5th, 9th, 10th, and 11th instants, with power to examine witnesses and to send for persons and papers, reported:

That, in entering upon the execution of their duties as prescribed in the order of their appointment, the committee believed that their researches were to be directed to the truth of the charges of corruption made in said paper, with a view to the conduct of the Senate and its members, and not with the view of arraigning or punishing the authors of the publication. Under this sense of their duties, the committee summoned before them the editor of the Daily Times newspaper, (Mr. H. H. Robinson) and the publisher, (Mr. J. E. Dow) as witnesses, who, of their own knowledge, or by giving the names of others, might be able to prove the alleged corruptions; and the committee declined to act upon intimations that others besides the editor and publisher might be found to be connected with the authorship of these publications. The inquiry, in this way, avoided all aspect of a proceeding against the authors of the publications, and became wholly directed to the character of the Senate as a component part of our republican institutions, and which can not be impaired or destroyed without great injury to those institutions.

To avoid calling persons unnecessarily and improperly before them, the committee requested the editor and the publisher of the paper to state, in writing, the facts they expected to prove by each witness, which was done; and the statements thus made, being copied into the minutes of the proceedings, became a justification for summoning each witness, and also a guide to his examination, and gave the editor and the publisher the benefit of directing the inquiry to the points which they deemed material.

Under the general imputation against Senators, of corrupt communications with the British minister in relation to the settlement of the Oregon question, the articles published in the Times contained three specifications of a character sufficiently definite to admit of specific inquiry; and to the truth of these specifications the researches of the committee were chiefly directed. These specifications were: (1) A dinner or entertainment at the British minister's, at which many Senators were said to be present, and where corrupt conversations in relation to the Oregon question were supposed to have been held; (2) a meeting of the Whig members in a room at the Capitol, on the Friday before the sailing of the steamer *Cambria*, at which the British minister was charged to be present, and where it was said to be agreed to have a vote taken, to be sent off to Great Britain by the return of that steamer; (3) an admission by Mr. Senator John M. Clayton, that he was present at the British minister's table when the strength of the British Oregon party in the Senate, as it was styled, "was counted by their noses."

Each of these specifications was found, upon investigation, to be utterly and entirely false.

(1) With respect to the dinner at the British minister's, and the alleged corrupt conversations there, the editor and the publisher of the Times paper each declared, on oath, that he had no personal knowledge of any such dinner or conversation. The two persons named by them as witnesses having "a knowledge" of the dinner or entertainment, and of the conversation there held—namely, Messrs. Samuel Medary and L. C. Turner—swore positively that they had no "knowledge" of any

such dinner, conversation, or entertainment. There remained, then, no persons for further examination on this head, but the Senators charged with being present at the supposed dinner; and the editor and publisher of the paper having each refused to say that he expected to prove by any member of the Senate any conversations with the British minister of the character mentioned in the publications, and having, on the contrary, sworn that they did not expect to prove any such conversations by said Senators, it appeared to the committee that there was no foundation for calling the said Senators, or any of them, to testify; but it was deemed proper to make known to the Senators, whose names had been given in as witnesses, the facts in relation to the use made of their names, that they might act in relation to it as they thought proper. They were informed accordingly; and the Senators so informed, each for himself, promptly sent in sworn statements, utterly contradicting all that was imputed to him. These statements, with the other evidence, were entered on the minutes of the committee's proceedings, and leave no doubt on the minds of the committee that the whole story in relation to the dinner, and the alleged corrupt conversations, is a false and contemptible libel.

(2) In relation to the meeting of the Whig Senators in the Capitol, and the closeting of the British minister with them on the Friday before the sailing of the *Cambria*, and the alleged resolve then taken to have an immediate vote on the Oregon question to send out by the *Cambria*, the committee after full and careful inquiry, find the whole story to be unfounded and untrue; that there was no meeting of such Senators on that day; that the British minister was never at such a meeting on any day; that there was a meeting a day or two before the day charged, at which the sense of the meeting in relation to the Oregon question was precisely the contrary of the resolve imputed to it in the publications, being in favor of a delay of the debate for two weeks, instead of hurrying a vote to be carried out by the *Cambria*. These facts are proved by Whig members present at the actual meeting; and, further, that in conformity with this resolve to postpone the debate, a Senator at the meeting (Mr. Dayton) was appointed to move the postponement in the Senate, and did so; and only withdrew his motion after debate and opposition. And thus this story of a Whig meeting in the Capitol, attended by the British minister, is proved to be an absurd fabrication.

(3) With respect to the "nose-counting" at the British minister's table, the whole story has had a termination so ridiculous and contemptible, that the committee find it difficult to speak of it in the temperate language which becomes a report to the Senate. State papers seem to descend from their dignity when compelled to notice things so despicable, false, and vulgar. Justice, however, to the character of our institutions requires it to be done, and the committee will discharge their duty in the fewest possible word.

Publications in the Times newspaper had charged this species of counting the (so-called) strength of the British on the Oregon question in the Senate of the United States, and the British minister's table was made the place of the enumeration. On the first day of the meeting of the committee, the editor of the Times (Mr. H. H. Robinson) wrote down in the presence of the committee that he expected to prove by Mr. E. B. Schnabel, of Philadelphia, that Mr. J. M. Clayton, a member of the committee then present, had admitted that he was present at the British minister's table when this "counting by noses" took place. Mr. Clayton instantly demanded the production of the witness. Fortunately, Mr. Schnabel, contrary to his intention, expressed the evening before in the presence of the editor of the Times, had not returned that morning to Philadelphia, and quickly appeared before the committee. On seeing what was written down, as expected to be proved by him, he manifested perfect amazement; declared that he could not sustain Mr. Robinson; that he was totally ignorant of everything attributed to him; that he had never seen Mr. Robinson until the night before, when he casually met him at the room of a member of Congress; that he had asked him what proofs he had to carry before the Senate's committee to justify his charges, and talked with him about some of the rumors in circulation; and that all that was attributed to him was false and unfounded. Mr. Schnabel expressed his extreme mortification at being called as a witness in such a case, and spoke like a man of honor, whose sensibilities were wounded at finding himself in such an unpleasant situation.

The next morning a communication was received from Mr. Robinson, which he desired to have entered on the minutes of the proceedings as a correction of his previous reference to Mr. Schnabel, declaring it to have been an "inadvertence," and that Messrs. Medary and Turner were the persons intended to be named. Soon after, Mr. Schnabel himself appeared, and asked to add to his testimony of the previous day what had occurred since his examination on yesterday, which was, that he had met Mr. Robinson that morning, who had acknowledged his mistake, retracted what he had imputed to Mr. Schnabel, and promised to have his retraxit made known to the committee. The additional statements of each were entered upon the minutes of the proceedings, and the inquiry considered finished, the committee seeing no reason to

examine Messrs. Medary and Turner, who had previously sworn that they had no knowledge of anything that had ever been said or done at the British minister's table. But, Mr. Clayton desiring it, these witnesses were recalled, and examined to that point, and both fully declared that they knew nothing of any dinner at the British minister's, or any conversations there, or any admission of any kind from Mr. Clayton, and that they had never spoken to or conversed with him in their lives, and had given Mr. Robinson no information on the subject.

Thus terminated the examination into the only tangible specifications under the general charge of corruption against Senators contained in the publications in the Times newspaper of the dates referred to. The examination terminated in the total overthrow of those charges; and however unfounded and unworthy of notice they have been shown to be, the committee believe a service has been rendered to the institutions of our country, and to the decencies and hospitality of private life, in exposing them to the contempt they merit.

The committee confine themselves, in this report, to the results established by the testimony, in which they unanimously concur. The testimony itself is set out in the minutes of the proceedings; and the committee have to say that all the witnesses summoned before them testified readily and frankly, except one (a Mr. G. T. M. Davis), who had acknowledged himself to be the writer of the extract of a letter copied into the Daily Times from the Missouri Republican, and charging corruption and British collusion on Senators and Representatives. After having named a Senator as being alluded to in the charge, and admitting that he had no personal knowledge of its truth, he refused to go on with his testimony unless allowed to repeat the hearsay of some person whom he refused to name, and who also refused to sign his own deposition as written down by himself, and in which no error was suggested. This individual was notified to attend this day, that the Senate, if it saw fit, might take some order with respect to him; but the committee propose nothing, believing that the vindication of the Senator named from the charge made against him, and all the ends of justice, will be fully accomplished by the publication of the accuser's own testimony, as far as it went.

In conclusion, the committee have to remark that the editor of the Times (Mr. H. H. Robinson) declared that he was the writer of all the articles referred to in his paper, except the quoted extract from the Missouri Republican, and that he has no personal knowledge of the truth of anything he wrote in the said articles.

In execution of that part of their duty under the Senate's order, which required the committee to report what "measures" are proper for the vindication of the honor and character of the Senate, they believe it to be sufficient, in this case, to recommend the printing of this report, and of all the testimony taken by the committee; and that the editor and the publisher of the Times (Mr. H. H. Robinson and Mr. J. E. Dow) and their reporters be excluded from the gallery of the Senate reporters.

The report was read; and, on motion of Mr. Johnson, of Maryland, concurred in.

On motion by Mr. Benton,

Ordered, That the report, with the testimony taken by the committee, be printed.

1st sess. 30th Cong., J. of S., 124.] JANUARY 20, 1848.

Mr. Dickinson submitted the following motion for consideration:

Resolved, That Jesse E. Dow be admitted to a seat in the reporters' gallery, from which he was excluded by an order of the Senate of 16th of March, 1846.

[Agreed to January 27. Ib., 137.]

A. DEVINE.

Mr. Devine published in the Boston Daily Advertiser a card reflecting on Senator Conkling. It was proposed that he be deprived of his privilege of admission to the reporters' gallery. The resolution was referred to the Committee on Privileges and Elections.

2d sess. 42d Cong., J. of S., 792.] MAY 20, 1872.

Mr. Hamlin submitted the following resolution for consideration:

Whereas there was published in the Boston Daily Advertiser, a newspaper printed in Boston, Mass., on the 18th day of May, instant, a card in the following words, to wit:

"A CARD.

"WASHINGTON, D. C., *May 17, 1872.*

"*To the Editor of the Boston Daily Advertiser:*

"As you have to-day published Senator Conkling's slanderous attack on the Associated Press and some of its employees, please give me space to say that all his

statements relating to me, except that I sit in the reporters' gallery, are absolutely false.

"Respectfully,

"A. DEVINE,
"*Reporter United States Senate for Associated Press.*"

And whereas the said Devine has held, and now holds, his place in the Senate gallery as reporter for the Associated Press by the favor and courtesy of the Senate; and the said Devine being justly censurable for the publication of said card, and having forfeited all claim to the future courtesy of the Senate: Therefore,

Resolved, That the said A. Devine be, and hereby is, expelled from the galleries of the Senate for the future.

Ib., 821.] MAY 23, 1872.

The Senate proceeded to consider the resolution submitted by Mr. Hamlin, on the 20th instant, for the expulsion of A. Devine, from the reporters' gallery of the Senate; and,

On motion by Mr. Hamlin,

Ordered, That the resolution be referred to the Committee on Privileges and Elections.

DISORDER IN THE CAPITOL.

DUFF GREEN.

Edward V. Sparhawk complained to the Senate that he had been assaulted in the room of the Committee on Claims of the Senate. Mr. Green filed a memorial in reply disclaiming any intention of offering any disrespect to the Senate, and the two communications were laid on the table.

1st sess. 20th Cong., J. of S., 125.] JANUARY 29, 1828.

The Vice-President communicated a memorial of Edward Vernon Sparhawk, accompanied by an affidavit of the facts, complaining that Duff Green, an officer of the Senate, did, on the 25th instant, commit an act of violence upon him, in the room of the Committee of Claims of the Senate; and praying for redress; and,

On motion by Mr. Berrien,

Ordered, That it lie on the table.

Ib. 129.] JANUARY 31, 1828.

The Vice-President communicated a memorial from Duff Green, setting forth the circumstances and provocation that induced his assault upon Edward Vernon Sparhawk, and disclaiming all intention of offering, thereby, any indignity to the Senate, or of impinging any of its rules; and,

On motion by Mr. Cobb,

Ordered, That it lie on the table.

[May 26, Mr. Foot introduced a resolution declaring this assault a contempt of the Senate. No action was taken upon it. (J. of S., 491, *infra*, p. 91.)]

PRESIDENT'S SECRETARY.

April 17, 1828, the President of the United States communicated to the Senate the fact that his Secretary, while bearing a message from the President to the Senate, was assaulted in the rotunda of the Capitol. On the following day a memorial from Mr. Russell Jarvis was presented setting forth the provocation for the assault. May 26 a resolution was introduced declaring the assault a contempt of the Senate, but the Senate adjourned *sine die* without acting upon it.

1st sess. 20th Cong., J. of S., 309.] APRIL 17, 1828.

The following written message was received from the President of the United States by Mr. Daniel Brent:

WASHINGTON, *17th April, 1828.*

To the Senate and House of Representatives of the United States:

In conformity with the practice of all my predecessors, I have, during my service in the office of President, transmitted to the two Houses of Congress from time to time, by the same Private Secretary, such messages as a proper discharge of my constitutional duty appeared to me to require. On Tuesday last he was charged with

the delivery of a message to each House. Having presented that which was intended for the House of Representatives, whilst he was passing within the Capitol from their Hall to the Chamber of the Senate, for the purpose of delivering the other message, he was waylaid and assaulted in the Rotunda, by a person, in the presence of a member of the House, who interposed, and separated the parties.

I have thought it my duty to communicate this occurrence to Congress, to whose wisdom it belongs to consider whether it is of such a nature requiring from them any animadversion; and, also, whether any further laws or regulations are necessary to insure security in the official intercourse between the President and Congress, and to prevent disorders within the Capitol itself.

In the deliberations of Congress upon this subject, it is neither expected nor desired that any consequence shall be attached to the private relation in which my secretary stands to me.

JOHN QUINCY ADAMS.

APRIL 18, 1828.

The Senate proceeded to consider the message yesterday received from the President of the United States; and,

On motion by Mr. Tazewell, that the message be laid upon the table,

It was determined in the affirmative, { Yeas ..... 24 / Nays 22

Ib., 314.] APRIL 18, 1828.

The Vice-President communicated a memorial of Russell Jarvis, setting forth the cause of the provocation which induced him to assault Mr. John Adams, in the rotunda of the capitol on Tuesday last; and,

On motion by Mr. Woodbury,

Ordered, That it lie on the table.

1st sess. 20th Cong., J. of S., 491.] MAY 26, 1828.

The following motion was submitted by Mr. Foot for consideration:

Resolved, That the assault made by Russell Jarvis, within the walls of the Capitol, upon the private secretary of the President, charged with the delivering of an executive message to the Senate, *when in session*, is a contempt of the sovereign power of the nation and a breach of privilege of the Senate.

Resolved, That the assault made by Duff Green, printer for the Senate, in one of the committee rooms, on the person of E. V. Sparhawk, one of the reporters, is a contempt and breach of privilege of the Senate.

On motion by Mr. Chandler, that the Senate proceed to the consideration of said resolutions,

It was objected to by Mr. Foot.

MR. BENTON AND MR. FOOTE.

On several occasions prior to April 17, 1850, Senators Benton and Foote had had some sharp personal altercations during debates in the Senate. On that date, while Mr. Foote was speaking in reply to Mr. Benton, the latter started from his seat and moved towards Mr. Foote. Mr. Foote left his seat and took a stand in front of the Secretary's table, at the same time drawing and cocking a revolver. Mr. Benton was led back to his seat by Senators in the midst of great confusion, and Mr. Foote was induced to surrender the pistol.

The matter was referred to a select committee. The committee reported, July 30, that the whole scene was most discreditable to the Senate; that Mr. Foote had provoked Mr. Benton by bitter personal attacks, and that he probably intended either to make a personal assault on Mr. Foote or to intimidate him; and that, while Mr. Foote had no intention of assassinating Mr. Benton, there had been imminent danger of bloodshed. The committee recommended no action, expressing the hope that their condemnation of the occurrence would be "a sufficient rebuke and a warning not unheeded in future." No further action was taken.

1st sess. 31st Cong., S. Rept., No. 170.]

IN SENATE OF THE UNITED STATES.

JULY 30, 1850.—Submitted and ordered printed with the appendix.

Mr. Pearce made the following report:

The committee appointed in conformity with a resolution of the Senate of the 17th of April, 1850, report:

That, at the request of Mr. Benton and Mr. Foote, they summoned witnesses and took much testimony, which is set forth at large in an appendix herewith presented.

In order to a proper understanding of the facts into which the committee were directed to inquire, it is necessary to premise that on several occasions prior to the 17th of April last, the Senator from Mississippi (Mr. Foote) had indulged in remarks personal to the Senator from Missouri (Mr. Benton); that, on the occasion last preceding the one in question, Mr. Benton complained of these personalities, in strong and violent language, addressed to the Senate; retorted the personalities upon Mr. Foote, spoke of the failure of the Senate to protect its members from such insults; and declared his determination, if the Senate did not protect him thereafter, to redress the wrong himself, cost what it might. He also said, in substance, that a member offering such insults should be cudgeled. On the following day, Mr. Benton brought into the Senate, the newspaper report of the altercation, which, he said, had been revised by Mr. Foote. He pronounced it a lying report, and denounced it as cowardly.

On the 17th of April, the Senator from Missouri (Mr. Benton) said, in debate, as follows:

"Sir: I intend, by these amendments, to cut at the root of all that agitation, and to cut up the whole address of the southern members, by which the country was thrown into a flame. I mean to show that there was no foundation for any such thing; that is, I mean to offer a proposition, upon which the votes will show that there has been a cry of 'wolf' when there was no wolf; that the country has been alarmed without reason and against reason; that there is no design in the Congress of the United States to encroach upon the rights of the South, nor to aggress upon the South, nor to oppress them upon the subject of their institutions. I propose, sir, to give the Senate an opportunity of showing that all this alarm has been without a foundation, and I further propose to give to the people of the United States the highest declaration that can be given on earth that they have been disturbed about nothing, and when we come to that part of the question, we will see whether they are abstractions or not; and if these are abstractions, then the country has been alarmed about abstractions."

To this, the Senator from Mississippi (Mr. Foote) replied as follows:

"I repeat that I did not come here this morning in the expectation of saying a word; and especially, would I not be heard referring to anything emanating from a certain quarter, after what has occurred here, but for what I conceive to be a direct attack upon myself and others with whom I am proud to stand associated. We all know the history of the Southern address, and the world knows its history. It is the history of the action of a band of patriots worthy of the highest laudation, and who will be held in veneration when their calumniators, no matter who they may be, will be objects of general loathing and contempt."

"Those who were associated with and sanctioned that address are charged with being agitators, and by whom? With whom does such an accusation as this originate? I shall not be personal, after the lesson I have already received here. I intend to be, in a parliamentary sense, perfectly decorous in all things. But, by whom is this extraordinary denunciation hurled against all those individuals who subscribed this address? By a gentleman long denominated the oldest member of the Senate—the father of the Senate. By a gentleman, who, on a late occasion"——

At this point in the speech of Mr. Foote, Mr. Benton rose from his seat, threw or pushed his chair violently from him, passed through the opening in the railing into the passage behind the bar of the Senate, and without remark or gesture, but with an angry countenance, quickly strode down the passage without the box of the Senate, towards the seat of Mr. Foote, which is distant about 20 feet from his own; both seats being in the back row, next the bar. Mr. Benton had no weapon of any kind in his hands, or about his person.

Mr. Foote, quickly perceiving the movement of Mr. Benton, and almost simultaneously with it, left his place on the floor, and proceeded down the small aisle which leads from his seat to the space in front of the secretary's table, and which is the one next to the principal aisle.

As he did so, he looked over his shoulder and drew a pistol from his pocket, the pistol, being a five-chambered revolver fully loaded. Mr. Foote cocked his pistol, either while going down the aisle or after he had taken his position in front of the secretary's table.

Mr. Dodge, of Wisconsin, quickly followed Mr. Benton, when he moved down the passage without the bar, overtook him within 7 or 8 feet of Mr. Foote's seat, and took him by the arm, when Mr. Benton said, "Don't stop me, Dodge." Mr. Dodge then said, "Don't compromit yourself or the Senate," or words to that effect.

Mr. Benton then turned with Mr. Dodge, and was going back to his seat when he perceived the pistol in Mr. Foote's hands, which seemed to excite him greatly. He got within the bar near his seat, and struggled with the Senators around him, as if desirous of approaching Mr. Foote, exclaiming, "I am not armed;" "I have no pistols;" "I disdain to carry arms;" "Let him fire;" "Stand out of the way and let

the assassin fire." While making these exclamations, Mr. Benton was brought back to his seat by the Senators around him.

In the meantime, in the midst of great noise and confusion, Mr. Foote had remained standing in, or near, the position he had taken, with his pistol in his hand, cocked, but with the muzzle down. Mr. Dickinson, of New York, desired him to give up the pistol, which he readily did, when Mr. Dickinson locked it up in his desk. Soon after both Senators resumed their seats and order was restored.

After giving this narrative of the proceedings in question the committee feel bound to say that the whole scene was most discreditable to the Senate.

Its origin may be traced directly to the violation of that rule of order, which forbids all personalities, which, though it allows a member to speak of the utmost freedom of the measure or subject before the Senate, does not allow any digression in order to arraign the motives or assail the character of any other member who advocates or opposes it. This rule is not founded merely in conventional decorum, or that natural courtesy which prompts men to avoid what is painful or unpleasant to others. Neither is it only because of the dignity of the body that "reviling, nipping, or unmannerly words" are forbidden to be spoken. It is requisite for the purity and freedom of legislation that such a rule should be made and strictly enforced. As no deliberative assembly can deserve the name which is overawed by violence, so, the deliberations of such a body to be free must not be disturbed or checked by personalities of language, which are even more painful to the generous mind than violence itself, from which not only the timid but the sensitive shrink, and which prompt men of impetuous character to quick and passionate resentment.

To preserve the judgment undisturbed, freedom of thought unawed, and due liberty of speech unchecked, it must not be allowed that one member should denounce another's motives, or arraign his character for anything said or done within or without the Senate chamber.

If it should happen that the conduct of a member prove to be infamous he may be expelled as unworthy the association of the body; if he utter mischievous opinions in the Senate, they may be controverted and their ill tendencies there exposed. But, from mere personal assaults nothing but evil can flow. They lower the dignity and character of the body, disturb its decorum and harmony, overawe its deliberations, impede its business, destroy its usefulness, and tend to introduce the law of force in the place of reason and the law of Parliament. Still worse is actual personal conflict between members. "A blow struck in the House of Commons," said the Earl of Ancram, "is a blow struck at the whole commons of England." If the assault endangers life it rises to a degree of enormity; and in a republic of which law and order are the mainsprings, it must shock and outrage the moral sense of the public as well as the Senate in the highest degree.

It is much to be regretted that the Senate has, for some time past, and until very recently, departed in its practice from the strict rules of order in debate, and tolerated personalities, which were increasing in frequency and violence. This neglect of its own rules may in some degree palliate, but can in nowise justify or excuse the personalities which led to the scene of disorder and violence into which the committee have been directed to inquire. They rejoice that the late Presiding Officer of the Senate, after a careful inquiry into the rules of the body, announced it to be his duty and his purpose, as it is the right of every member, promptly to check all such disturbances of its order.

The application to the question before them of the principles and considerations which the committee have stated is a painful duty, but one which they must perform, without favor or prejudice.

In the first place, they report to the Senate, as their unanimous opinion, that Mr. Foote is entirely innocent of any design or desire to assassinate Mr. Benton.

But, they are bound to say, that at various times during the present session, Mr. Foote, without any sufficient provocation, so far as the committee are informed, indulged in personalities toward Mr. Benton of the most offensive and insulting character, such as were calculated to arouse the fiercest resentment of the human bosom.

These were suffered by Mr. Benton for a long time with great forbearance.

On the 26th of March last they were renewed, and on this occasion Mr. Benton manifested his resentment with much violence. On the succeeding day he recriminated in language equally personal, disorderly, and abusive. He complained that the Senate permitted such outrages, and announced his purpose, if the Senate did not protect him in future, to redress the wrong, cost what it might.

On the 17th of April last, Mr. Foote spoke again, and used the language which is set forth in the narrative of the committee. This language the committee consider personal and offensive, because its application to Mr. Benton could not be mistaken, and because in effect and by implication it charged him with being a calumniator. That Mr. Foote was not promptly called to order by the Presiding Officer or some member of the Senate must have been owing to the fact, that the collocation of the

passages in the speech was such that the personality was not immediately perceived. Indeed, the application of the term "calumniator" to Mr. Benton was not made until the moment when the disorder arose. At that point in the remarks of Mr. Foote, Mr. Benton left his seat and proceeded towards Mr. Foote in the manner already mentioned.

He was not armed, nor does it appear that he ever has carried arms, but the contrary. This, however, it is believed, was not known to Mr. Foote. What his intention was the committee have not been able to ascertain by direct testimony; but they can not avoid the inference, from all the circumstances, that he intended either to make a personal assault upon Mr. Foote or to intimidate him. His manner, coupled with his previous declarations, was certainly such as to justify Mr. Foote in the belief that the first was his intention, as it evidently did excite such apprehensions in the minds of many if not most of the Senators who witnessed it. Mr. Foote then left his seat, without advancing toward Mr. Benton, but in fact placing himself further from him, and though he drew a deadly weapon he did not present it, and readily gave it up when demanded of him. No blow was struck; no shot fired; but there was imminent danger that the Senate Chamber would be the scene of a deadly and criminal encounter.

The committee can not too strongly condemn the practice of wearing arms in the Senate Chamber.

Ours should be the deliberations of peace, patriotism, and wisdom, uninterrupted by personalities, uncontrolled by force, unintimidated by preparations for deadly conflict. Senators should rely for defense upon the Senate, whose high duty it is to protect its members from injury or insult, and whose practice should furnish a perfect guarantee of such protection.

A different course would convert the halls of legislation into bloody arenas, and destroy the value, if not the existence, of the institutions from which spring our glory and our good.

The committee have searched the precedents and find that no similar scene has ever been witnessed in the Senate of the United States. Personal conflict has on several occasions occurred in the House of Representatives and in the British House of Commons. In the former body no punishment has ever been inflicted, the House being satisfied with the atonement of an ample apology. In the British Parliament the House, in one case, committed a member to the tower for striking another, but, in general, they have proceeded no further than to put the offending member in the custody of the sergeant-at-arms, and their decision has been made upon view, and not after the report of a committee.

In the present case, under all the circumstances, the committee forbear to recommend any action to the Senate. They hope that the strong condemnation of the personalities which led to threatened violence, their censure of the attempt by a member to avenge himself in the presence of the Senate, and of the practice of carrying arms in the Senate Chamber, will be a sufficient rebuke, and a warning not unheeded in future.

Should this hope prove vain, and similar scenes of violence again occur, they can not doubt that the Senate will enforce prompt, stern, and effectual punishment.

ASSAULT UPON MR. SUMNER.

May 22, 1856, while Mr. Sumner was seated at his desk in the Senate Chamber, after the Senate had adjourned for the day, he was assaulted by a member of the House of Representatives. The following day a committee was appointed to investigate the matter. The committee reported May 28, declaring the assault a breach of the privilege of the Senate, but holding that the offense could only be punished by the House of Representatives, of which Mr. Brooks was a member. The report was sent to the House. The House appointed a select committee to investigate the case May 23 (J. of H., 1029), to which the report of the Senate committee was referred May 29. (Ib., 1070.) June 2 the House committee reported, declaring the assault a breach of privilege of the House as a coördinate branch of the Government, and recommending his expulsion. The resolution failed to receive the necessary two-thirds majority, and on the same day, July 14, 1856, Mr. Brooks announced that he had resigned his seat. (J. of H., 1201–1202.]

1st sess. 34th Cong., J. of S., 351.] MAY 23, 1856.

Mr. Wilson stated to the Senate that his colleague was unable to attend the Senate to-day in consequence of injuries received in an assault made on him in the Senate Chamber after the adjournment of the Senate yesterday.

Mr. Seward submitted the following resolution:

Resolved, That a committee of five members be appointed by the President to inquire into the circumstances attending the assault committed on the person of the Hon. Charles Sumner, a member of the Senate, in the Senate Chamber yesterday; and

that the said committee be instructed to report a statement of the facts, together with their opinion thereon, to the Senate.

[The motion was considered by unanimous consent, amended by striking out the words "appointed by the President," and inserting in their place the words "elected by the Senate," and agreed to as amended.]

1st sess. 34th Cong., S. Rept. No. 191.]

IN THE SENATE OF THE UNITED STATES.

MAY 28, 1856.—Submitted and ordered to be printed.

Mr. Pearce made the following report:

The select committee appointed to inquire into the circumstances attending the assault committed upon the person of the Hon. Charles Sumner, a member of the Senate, report:

That, from the testimony taken by them, it appears that the Hon. Preston S. Brooks, a member of the House of Representatives from the State of South Carolina, did, on the 22d day of the present month, after an adjournment of the Senate, and while Mr. Sumner was seated at his desk in the Senate Chamber, assault him with considerable violence, striking him numerous blows on and about the head with a walking stick, which cut his head and disabled him for the time being from attending to his duties in the Senate. The cause of this assault was certain language used by Mr. Sumner in a debate on the Monday and Tuesday preceding, which Mr. Brooks considered libelous of the State of South Carolina, and slanderous of his near kinsman, Mr. Butler, a Senator from that State, and who at the time was absent from the Senate and the city.

The committee forbear to comment upon the various circumstances which preceded and attended this affair, whether by aggravation or extenuation, for reasons which will be sufficiently obvious in the latter part of the report.

They have examined the precedents, which are to be found only in the proceedings of the House of Representatives, the Senate never having been called on to pronounce its judgment in a similar case.

In the House of Representatives the different opinions have, at various times, been expressed by gentlemen of great eminence and ability, among whom may be mentioned the late President of the United States, Mr. Polk, the late Judge Barbour, of the Supreme Court, and Mr. Beardsley of New York, yet the judgment of the House has always held an assault upon a member for words spoken in debate to be a violation of the privileges of the House.

The committee do not consider it necessary to discuss the question at length, but proceed to state some of the precedents, not confining them, however, to the case of assault upon members.

In March, 1796, Mr. Baldwin, a member of the House of Representatives, presented to the House certain correspondence between himself and Gen. Gunn, a Senator from the State of Georgia, including a challenge addressed to him by Gen. Gunn.

These were referred to a committee, of which Mr. Madison was chairman, who reported, by their chairman, that the same was a breach of the privileges of the House, on the part of Gen. Gunn, and Mr. Frelinghuysen, a Senator from New Jersey, by whom the challenge had been borne.

In May, 1828, a personal assault having been made by Mr. Russell Jarvis upon Mr. John Adams, the private secretary of the President, just after his delivering a message to the House of Representatives, and while on his way to the Senate with another message, the matter was, on complaint of the President, referred to a select committee, a majority of the committee, by Mr. McDuffie, of South Carolina, their chairman, reported that—

"Upon a view of all the circumstances, the committee are of the opinion that the assault committed by Mr. Jarvis upon the private secretary of the President, whatever may have been the causes of provocation, was an act done in contempt of the authority and dignity of this House, involving not only a violation of its own peculiar privileges, but of the immunity which it is bound, upon every principle, to guaranty to the person selected by the President as the organ of his official communications to Congress. It is of the utmost importance that the official intercourse between the President and the legislative department should not be liable to interruption. The proceedings of Congress would not be more effectually arrested by preventing the members of either House from going to the hall of their deliberations, than they might be by preventing the President from making official communications essentially connected with the legislation of the country."

"The power in question grows out of the great law of self-preservation. It is, no

doubt, very liable to abuse, and ought always to be exercised with great moderation. In its very nature it is not susceptible either of precise definition or precise limitation. Each particular instance of its exercise must be adapted to the emergency which calls for it. While, therefore, the committee deem it a matter of great importance to maintain the existence of this power as an essential means of vindicating the dignity and privileges of the House, they are clearly of the opinion that it ought never to be exercised except in cases of strong necessity, and that the punishment inflicted under it ought never to be carried further than shall be absolutely and imperiously required by the existing emergency."

In 1832 the House of Representatives, after a long trial and thorough discussion of the question, voted that Gen. Houston, by making a personal assault on Mr. Stansberry, a member of the House, for words spoken in debate, was guilty of a contempt and violation of the privileges of the House.

The committee acknowledge the force of these precedents, and adopt the reasoning quoted from Mr. McDuffie's report.

But while it is the opinion of the committee that this assault was a breach of the privileges of the Senate, they also think that it is not within the jurisdiction of the Senate, and can only be punished by the House of Representatives of which Mr. Brooks is a member.

This opinion is in strict conformity with the recognized parliamentary law.

Hatsell in his precedents says as follows:

"The leading principle which appears to pervade all the proceedings between the two Houses of Parliament is, that there shall subsist a perfect equality with respect to each other; and that they shall be, in every respect, totally independent one of the other. From hence it is, that neither House can claim, much less exercise, any authority over a member of the other; but, if there is any ground of complaint against any act of the House itself, against any individual member, or against any of the officers of either House, this complaint ought to be made to that House of Parliament where the offense is charged to be committed; and the nature and mode of redress or punishment, if punishment is necessary, must be determined upon and inflicted by them. Indeed, any other proceeding would soon introduce disorder and confusion; as it appears actually to have done in those instances where both Houses, claiming a power independent of each other, have exercised that power upon the same subject, but with different views and to contrary purposes." (3 Hatsell, 67.)

"We see, from the several precedents above cited, that neither House of Parliament can take upon themselves to redress any injury, or punish any breach of privilege offered to them by any member of the other House; but that, in such case, the usual mode of proceeding is, to examine into the fact, and then to lay a statement of that evidence before the House of which the person complained of is a member." (Ib., 71.)

Mr. Jefferson, in the Manual of Parliamentary Practice prepared by him, lays down the following rule:

"Neither House can exercise any authority over a member or officer of the other, but should complain to the House of which he is, and leave the punishment to them."

A brief examination of the constitutional privileges of Senators and Representatives will show the soundness of this rule of parliamentary law.

The Constitution provides (Art. I, sec. 6) that "they shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses, and in going to and returning from the same."

But the Senate is not a court of criminal judicature, empowered to try the excepted offenses. It can not take cognizance of a breach of the peace *as such*. It can not take any notice of it except as a breach of its privileges, and in this character it is not one of the cases in which the privilege from arrest is excepted. The Senate, therefore, for a breach of its privileges, can not arrest a member of the House of Representatives, and *a fortiori* it can not try and punish him.

That authority devolves solely upon the House of which he is a member.

It is the opinion of the committee, therefore, that the Senate can not proceed further in the present case than to make complaint to the House of Representatives of the assault committed by one of its members, the Hon. Preston S. Brooks, upon the Hon. Charles Sumner, a Senator from the State of Massachusetts.

The committee submit herewith certain affidavits taken by them in this case, and the following resolution:

Resolved, That the above report be accepted, and that a copy thereof, and of the affidavits accompanying the same, be transmitted to the House of Representatives.

Question to Col. Nicholson:

Will you state to the committee whether you witnessed the recent assault upon Mr. Sumner? And if you did, state all the particulars.

On Thursday last, the 22d of May, instant, a few moments after the adjournment

of the Senate, I retired, as usual, to my desk in one of the offices of the Secretary of the Senate. After the lapse of a brief period I returned to the Senate Chamber to request the assistant doorkeeper (Mr. Holland) to have a piece of money changed for me. After seeking the doorkeeper and communicating my wish to him, I was walking down the main aisle of the chamber, when I observed the Hon. Mr. Brooks, of South Carolina, sitting at the desk of Senator Pratt. I saluted him, "How is Col. Brooks to-day?" He responded, "Well, I thank you," and beckoning to me he added, "Come here Nicholson." I advanced, and placed myself in Senator Bayard's chair, near which, on my right, Maj. Emory, of the United States Army, was standing, and with whom I had been conversing a few minutes before. Col. Brooks remarked to me in his usual tone of voice, and without the slightest show of inquietude, "Do you see that lady in the lobby?" Turning round and observing a lady sitting on the lounge at a short distance from us, I said, "Yes." Col. B. said, "She has been there for some time; what does she want? Can't you manage to get her out?" Thinking that Col. B. was only indulging a momentary whim, I jocosely replied, "No; that would be ungallant; besides, she is very pretty." Col. B., turning round, and looking at the lady, said, "Yes; she is pretty, but I wish she would go." At this moment the changed money was brought to me by one of the pages, and almost at the same moment Maj. Emory inquired, "Who was that gentleman you were conversing with?" I had scarcely said "Col. Brooks, of South Carolina, a very clever fellow," when observing Col. Brooks advancing in front of, and towards, as though about to speak to, Senator Sumner, who was sitting at his desk apparently engaged in writing, or with papers before him, I can not be positive which; I involuntary attempted to call Maj. Emory's attention to the fact, for I was much surprised to see a South Carolina Representative in the act of approaching to speak to Senator Sumner after the speech delivered by the latter the two previous days but one in the Senate. But before I could attract Maj. Emory's attention or express surprise, I saw Col. Brooks lean on and over the desk of Senator Sumner, and seemingly say something to him, and instantly and while Senator Sumner was in the act of rising, Col. Brooks struck him over the head with a dark-colored walking cane, which blow he repeated twice or three times, and with rapidity.

I think several blows had been inflicted before Senator Sumner was fully in possession of his locomotion, and extricated from his desk, which was thrown over or broken from its fastenings by the efforts of the Senator to extricate himself. As soon as Senator Sumner was free from the desk he moved down the narrow passageway under the impetuous drive of his adversary, with his hands uplifted as though to ward off the blows which were rained on his head with as much quickness as was possible for any man to use a cane on another whom he was intent on chastising. The scene occupied but a point of time—only long enough to raise the arm and inflict some ten or twelve blows in the most rapid succession—the cane having been broken in several pieces. All the while Senator Sumner was holding his hands above his head, and turning and tottering, until he sank gradually on the floor near Senator Collamer's desk, in a bleeding and apparently exhausted condition. I did not hear one word, or murmur, or exclamation, from either party until the affair was over. Such was the suddenness of the affair, the rapidity of its execution, the position of persons in the chamber, and the relative positions of the chairs and desks, that, although several persons (myself among them) quickly advanced to the spot where the parties were engaged, it was not in the power of those present to have separated Colonel Brooks, or to have rescued Senator Sumner, so as to have prevented the former from accomplishing his purpose. Such was the conclusion of my judgment at the moment of the occurrence, and such it is now.

JOS. H. NICHOLSON.

WASHINGTON, *May 27, 1856.*

By Mr. Allen. What Senators were present at the time?

Senators Toombs, Pearce, and Crittenden were seated in their respective chairs just preceding the affair. During its occurrence, and toward the close of it, I observed Mr. Crittenden near the parties, evidently striving to terminate the assault. I can not now say that I observed any other Senators until the affair was over.

What members of the House of Representatives were present?

The only member of the House of Representatives whom I recognized was the Hon. Mr. Keitt, of South Carolina, who approached the parties about the time Mr. Crittenden did.

JOS. H. NICHOLSON.

Question propounded to Governor Brown, of Mississippi:

Please to state to the committee the cause of the assault committed by Mr. Brooks upon Mr. Sumner, as stated to you.

Did Mr. Brooks state to you the cause of his assault upon Mr. Sumner, and the

language which he addressed to Mr. Sumner just before the assault? If so, please to tell the committee what his language was, or what the cause of the assault.

On the day of the occurrence, and shortly after, I met Mr. Brooks in company with Mr. Keitt on the avenue, nearly opposite the Union building; after the usual salutations, Mr. Keitt mentioned what had occurred and was proceeding to give some account of it when Mr. Brooks interposed, with this remark: "The town, I suppose, will be full of rumors in a few hours, and I desire my friends to understand precisely what I have done and why I did it. Regarding the speech (of Mr. Sumner) as an atrocious libel on South Carolina, and a gross insult to my absent relative (Judge Butler) I determined, when it was delivered, to punish him for it. To-day I approached him, after the Senate adjourned, and said to him, 'Mr. Sumner, I have read your speech carefully, and with as much calmness as I could be expected to read such a speech. You have libeled my State and slandered my relation, who is aged and absent, and I feel it to be my duty to punish you for it;' and with that I struck him a blow across the head with my cane, and repeated it until I was satisfied. No one interposed, and I desisted simply because I had punished him to my satisfaction."

This is substantially and almost literally the statement of Mr. Brooks. The conversation then turned on other points and phases of the affair.

A. G. BROWN.

1st sess. 34th Cong., J. of S., 364.] MAY 28, 1858.

Resolved, That the above report be accepted, and that a copy thereof and of the affidavits accompanying the same, be transmitted to the House of Representatives.

JOHN ANDERSON.

Anderson had offered a gratuity to Mr. Williams, a member of the House. The fact was called to the attention of the House by Mr. Williams, and the Speaker was directed to issue his warrant for the arrest of Mr. Anderson. In accordance with this warrant Anderson was brought to the bar of the House, reprimanded by the Speaker, and discharged. Anderson subsequently brought suit against the Sergeant-at-Arms for false imprisonment. The case went to the Supreme Court of the United States, which sustained the authority of the House to arrest for contempt. (Anderson v. Dunn, 6 Wheat. 204.)

1st sess. 15th Cong., J. of H., 117.] JANUARY 7, 1818.

Mr. Williams, of North Carolina, laid before the House the following letter and statement:

WASHINGTON CITY, *6th January, 1818.*

Hon. LEWIS WILLIAMS:

HONORED SIR: I return you thanks for the attention I received on my claims to pass so soon.

Mr. Lee will hand some claims from the river Raisin, which will pass through your honorable committee, and I have a wish that the conduct of the British in that country may be related in full on the floor of Congress, which will give you some trouble in making out the report and supporting the same.

I have now to request that you will accept a small sum of $500, as part pay for the extra trouble I give you. I will present it to you so soon as I receive some from the Government. This is confidential that only you and me may know anything about it; or, in other words, I give it to you as a man and a Mason, and hope you belong to that society. Sir, should it happen that you will not accept of this small sum, I request you will excuse me. If you do not accept, I wish you to drop a few lines. If you accept I wish no answer. I hope you will see my view of this subject—that it is for the extra trouble.

I will make out a statement and present the same to the committee, which will be supported by Gen. Harrison, Col. Johnson, Mr. Halberd, Mr. Meigs, the Postmaster-General, Governor Cass's report, as commissioner, and others. Relying on your honor as to keeping this secret and your exertions in passing these claims as soon as possible, I need not inform you that we are, as poor unfortunate orphans, children having no representation in Congress, so must look on your honorable body as guardians. Pardon this liberty in a stranger. I remain, with high esteem, your most obedient, humble servant,

JOHN ANDERSON.

After breakfast this morning, George, a servant, came into the dining-room and told me that a gentleman was in my room waiting to see me. I stepped into my room, and Col. John Anderson was there. He handed me a letter, observing at the same time, that he had prepared that letter for me, and that, perhaps, it would require some explanation. I read over the letter with attention, and, having done so, observed to Col. Anderson it was a very surprising communication. I then started to

Mr. Wilson's room, immediately adjoining my own. When in the act of opening my own door, he begged I would not show the letter. I made no reply to this, but stepped into Mr. Wilson's room, and asked him to do me the favor to walk into my room. This Mr. Wilson did, following on immediately behind me. After we had got into my room, in the presence of Col. Anderson, I handed the letter to Mr. Wilson, and, observing that it was a very extraordinary communication, requested him to read it. When Mr. Wilson had read, or was nearly done reading, the letter, I told Col. Anderson that I repelled with indignation and contempt, the offer he made to me in the letter. Col. Anderson said he asked my pardon; that it was designed only as a small compensation for the extra trouble he expected to give the Committee of Claims in examining the claims from the Michigan Territory, and exposing the conduct of the British during the war; that it was foreign from his intention to attempt anything like a bribe, and requested me to burn the letter, or to return it to him. I told him I should do neither; that his offense was unpardonable, such as I could not forgive, and ordered him to leave the room instantly. Col. Anderson then begged pardon, and asked forgiveness with excessive earnestness. I told him I would listen to none of his apologies; that his offense was an attack upon the integrity of Congress generally, and upon mine personally and particularly; that no one should ever have my pardon, or expect my forgiveness, who should suppose me capable of such an influence as he had attempted to practice upon me. Again I told Col. Anderson to leave my room. He advanced to the door, where he stood for some time, endeavoring to obtain my pardon, as he said. I told him it was in vain to ask it; that as a member of Congress, and of the Committee of Claims, it was my duty to examine his claims, and, if just, support them; if unjust, oppose them; that his offer was an attempt to influence my mind in opposition to my duty, and as such could not be forgiven. He then desired me to burn the letter or to give it to him. I replied that I should do neither, and again ordered him to leave my room, whereupon he did leave the room. Mr. Wilson, after talking on the subject of the letter for sometime, suggested to me the propriety of calling in Mr. William P. Maclay. I stepped to his room, but as Mr. William P. Maclay was not in, I asked Mr. William Maclay, the roommate of Mr. William P. Maclay, to come to my room. He complied with my request; and shortly after he arrived at my room, Mr. William P. Maclay also stepped in. These gentlemen, Messrs. Wilson, William Maclay, and William P. Maclay, were in my room at the time the servant called to Mr. Wilson, and said a gentleman was below wishing to see him. Mr. Wilson walked out of the room and was gone a few minutes. After he returned he observed that Col. Anderson was the person who had sent for him; that Col. Anderson's business was to obtain his interference to put a stop to further proceedings on the subject of his letter to me. The precise conversation between Mr. Wilson and Col. Anderson can be related by the former with minuteness.

LEWIS WILLIAMS.

JANUARY 7, 1818.

The said letter and statement being read,

On motion by Mr. Forsyth,

Resolved unanimously, That Mr. Speaker do issue his warrant, directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House.

A warrant pursuant to the said resolution was accordingly prepared, signed by Mr. Speaker, under his seal, attested by the Clerk, and delivered to the Sergeant, with orders forthwith to execute the same and make due return thereof to the House.

[Ann. of Cong., 1st sess. 15th Cong., 611, 650; 650–790.]

Ib., 154.] JANUARY 16, 1818.

Resolved, That John Anderson has been guilty of a contempt and a violation of the privileges of the House, and that he be brought to the bar of the House this day and be there reprimanded by the Speaker for the outrage he has committed, and then discharged from the custody of the Sergeant-at-Arms.

[Ann. of Cong., 1st sess. 15th Cong., 583.]

Ib., 156.] JANUARY 16, 1818.

John Anderson then appeared at the bar of the House and was, in pursuance of the resolution adopted for that purpose, reprimanded by the Speaker and discharged from custody of the Sergeant-of-Arms.

[Ann. of Cong., 1st sess. 15th Cong., 790.]

[In consequence of this arrest Anderson subsequently brought suit for false imprisonment against the Sergeant-at-Arms, but was unsuccessful (*v. supra*, Anderson *v.* Dunn, p. 73).]

DISORDER IN THE GALLERIES.

On occasions when some manifestations of approval or disapproval have been made in the galleries, it has been found necessary to clear the whole or a portion of them of spectators, and in one instance, during the discussion of the resolutions to expunge from the Journal the resolution of censure upon President Jackson, an offender was brought to the bar of the Senate under arrest but immediately discharged.

2d sess. 24th Cong., J. of S., 124.] JANUARY 16, 1837.

The question being on the passage of the expunging resolution, disorderly conduct having occurred in the gallery,

On motion by Mr. Benton,

The Sergeant-at-Arms was ordered by the President to take the persons offending into custody.

The Sergeant-at-Arms reported that he had, in pursuance of the said order, taken a person, represented as having been engaged in the disorderly conduct, into custody.

On motion by Mr. Benton,

That the person represented as having been engaged in disorderly conduct be forthwith brought to the bar of the Senate,

It was determined in the affirmative, { Yeas ..... 18 / Nays 8

The Sergeant-at-Arms having executed the aforesaid order,

A motion was made by Mr. Benton that the said person, so brought before the bar of the Senate, be discharged from the custody of the Sergeant-at-Arms,

And it was determined in the affirmative, { Yeas ..... 23 / Nays 1

So the person brought to the bar was discharged from custody.

[Cong. Globe, 2d sess. 24th Cong., 98.]

1st sess. 27th Cong., J. of S., 173.] AUGUST 18, 1841.

A resolution was submitted:

Resolved, That the Committee of the District of Columbia be instructed to inquire into the extent and character of the disturbances in the galleries of the Senate on two occasions at the present extra session; one on the final passage of the bill for the Fiscal Bank of the United States, and one on the reading of the veto of said bill; and that they report whether any, and what, further legislation may be necessary to prevent or punish similar interruptions of the public business hereafter.

[August 19, the further consideration of the resolution was postponed to the first Monday in December. Cong. Globe, 1st sess. 27th Cong., 351.]

2d sess. 36th Cong., J. of S., 68.] DECEMBER 31, 1860.

The Senate having under consideration a bill for amending the Constitution, and disorder arose in the gallery, whereupon,

Mr. Mason moved that the galleries be cleared; and

The President (Mr. Bright in the chair) directed the galleries upon the right of the chair to be cleared.

Ib., 92.] JANUARY 14, 1861.

During remarks by Mr. Seward on the "Message of the President of the United States, communicating the correspondence with the commissioners of South Carolina," disorder occurred in the galleries, and it was

Ordered, That the Vice-President direct that the galleries be cleared.

The Vice-President thereupon directed the Sergeant-at-Arms to remove from the galleries all persons participating in the disorder.

The Sergeant-at-Arms having executed the order of the Vice-President, and order being restored,

The debate was resumed.

[February 8, 1861 (ib., 192), the galleries at the right of the chair were cleared in consequence of some disorder there.]

Ib., 374.] MARCH 2, 1861.

The Senate having under consideration the joint resolution proposing certain amendments to the Constitution,

A disturbance arose in the galleries; when

The President (Mr. Fitch in the chair) directed the Sergeant-at-Arms to clear the galleries and close the doors of the galleries.

The Sergeant-at-Arms having executed the order of the Presiding Officer, and order being restored, the Senate resumed business.

Ib., 375.] MARCH 2, 1861.

On motion by Mr. Lane, and by unanimous consent,

Ordered, That the doors of the gallery to the left of the chair be open for the admission of ladies only.

Mr. King, by unanimous consent, submitted a motion that the gallery to the right of the chair be open for the admission of spectators.

The Senate proceeded, by unanimous consent, to consider the motion.

A motion by Mr. Latham to amend the motion by striking out the word "spectators," and in lieu thereof inserting ladies only,

On motion by Mr. Clingman,

Ordered, That the motion by Mr. King, with the proposed amendments, lie on the table.

[Later in the day the galleries were opened for the admission of spectators generally, yeas, 24; nays, 19.]

[Cong. Globe, 2d sess. 36th Cong., 1351, 1356, 1363, 1364.]

2d sess. 36th Cong., J. of S., 377.] MARCH 2, 1861.

Disorder prevailing in the galleries to the right of the chair,

On motion by Mr. Douglas,

That the galleries to the right of the chair be cleared,

It was determined in the affirmative, { Yeas ..... 24 / Nays 12

[The names are omitted.]

The Vice-President having directed the Sergeant-at-Arms to clear the galleries to the right of the chair,

On motion by Mr. Wilson, and by unanimous consent,

The vote on the motion to clear the galleries was reconsidered; and,

Order being restored,

The Vice-President directed the Sergeant-at-Arms to suspend the further execution of the order to clear the galleries.

1st sess. 39th Cong., J. of S., 182.] FEBRUARY 23, 1866.

Mr. Sherman submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Sergeant-at-Arms is hereby instructed to arrest, without further order, any person, who by applause or dissent in the gallery, shall disturb the order of the Senate, and hold him subject to the order of the Senate.

2d sess. 43d Cong., J. of S., 86.] JANUARY 7, 1875.

Ordered, That the Sergeant-at-Arms be directed to place in the gallery a sufficient police force to arrest any person or persons who may disturb the proceedings of the Senate by marks of approbation or disapprobation, and report such arrest to the Senate.

2d sess. 44th Cong., J. of S., 139.] JANUARY 19, 1877.

Manifestations of applause having occurred in the gallery,

On motion by Mr. Edmunds,

Ordered, That the Sergeant-at-Arms be directed to arrest the persons who committed the disorder, and to clear the galleries at the right of the chair.

[No one appears to have been arrested.]

[See also 2d sess. 36th Cong., J. of S., 61; and 2d sess. 44th Cong., J. of S., 141, 142.]

JOURNAL.

The form of the Journal was adopted May 19, 1789, on the report of a committee appointed to consider this subject.

The Journal has been modified on several occasions. February 13, 1817, a question arose on the form of the record of the proceedings connected with the counting of the votes for President and Vice-President. The matter was referred to a select committee, but their report was rejected, and the record stood as originally made up by the Secretary.

The Journal was corrected March 2, 1861, November 21, 1877, and November 28, 1877. February 20, 1804, a motion to strike out of the Journal was rejected.

April 21, 1806, all matters relating to the memorials of S. G. Ogden and W. S. Smith were expunged from the Journal.

February 27, 1835, Mr. Benton introduced a resolution to expunge from the Journal the resolution of censure upon President Jackson, passed March 28, 1834, but failed to secure its passage. January 3, 1837, he introduced a similar resolution, which passed January 16, 1837, and the Secretary, in the presence of the Senate, drew black lines around the resolve in the manuscript journal of the session of 1833-'34, and wrote across the face of the resolution, "Expunged, by order of the Senate, this 16th day of January, in the year of our Lord 1837."

December 14, 1837, Mr. Bayard introduced a resolution to rescind the expunging resolution, but it did not pass.

January 15, 1824, the presiding officer of the Senate was given supervision over the Journal, and instructed to correct it before it was read, but this rule was rescinded April 14, 1826.

FORM.

1 J. of S., 27.] MAY 19, 1789.

The committee to whom was referred the motion for printing the Journals of the Senate, and furnishing each member with a copy thereof, and also to report upon the mode of keeping the Journals; and who were instructed to consider whether the minutes be amended so as to record only the acts of the Senate on the Journal, reported as follows:

That 120 copies of the Journals of the legislative proceedings only be printed once a month, commencing the first publication on the first day of June next, and that each member be furnished with a copy; that the proceedings of the Senate when they shall act in their executive capacity shall be entered and kept in separate and distinct books.

That every vote of the Senate shall be entered on the Journals, and that a brief statement of the contents of each petition, memorial, or paper presented to the Senate, be also inserted on the Journals.

That the Journals previous to each publication be revised by a committee appointed from time to time for that purpose.

Report accepted.

1 J. of S., 42.] JULY 17, 1789.

On motion, that upon the final question upon a bill or resolve, any member shall have a right to enter his protest or dissent on the Journal, with reasons in support of such dissent, provided the same be offered within two days after the final determination on such final question.

Passed in the negative.

CORRECTION.

2d sess. 14th Cong., J. of S., 230.] FEBRUARY 13, 1817.

Mr. Barbour submitted the following motion, which was read and considered:

Resolved, That the Journal of the proceedings of the Senate on yesterday, so far as they are connected with the service of counting the ballots for President and Vice-President of the United States, be made up in conformity to the precedents heretofore established in similar cases; and

On the question to agree thereto,

It was determined in the affirmative, { Yeas ..... 20 / Nays 16

1

b. 238.] FEBRUARY 14, 1817.

Mr. Fromentin submitted the following motion:

That the Journals be so amended as to include the statement of the proceedings relating to the election of President and Vice-President of the United States on Wednesday, the 12th instant, as read by the Secretary of the Senate on Thursday, the 13th instant, prior to the motion made by an honorable gentleman from Virginia, to amend the Journal so as to make it conformable to former precedents on a similar occasion.

On motion by Mr. Daggett,

Resolved, That said motion be referred to a select committee, with instructions to revise and correct the Journal of the proceedings of the Senate of the 12th instant, so far as respects counting the votes for President and Vice-President of the United States.

Ordered, That Mr. Dana, Mr. Barbour, and Mr. Daggett be the committee.

[The committee reported, and February 20 the report was rejected; yeas 12, nays 20 (ib., 265–269).]

[

1st sess. 18th Cong., J. of S., 106.] JANUARY 15, 1824.

Mr. King, of New York, submitted the following resolution for consideration, which was read:

Resolved, That there be added to the rules of the Senate the following:

The presiding officer of the Senate shall examine and correct the journals, before they are read, and shall have the regulation of such parts of the Capitol, and of its passages, as are or may be set apart for the use of the Senate and its officers.

[Agreed to January 22 (Ib., 125).]

1st sess. 19th Cong., J. of S., 240.] APRIL 14, 1826.

That so much of the 47th rule adopted January 22, 1824, as is contained in the following words, viz: after the word "Senate," in the first line, "shall examine and correct the journals before they are read; and" be expunged.

[Ib., 247, April 15, 1826. Passed—yeas, 35; nays, 6.]

[Ann. of Cong., 1st sess. 19th Cong., 573.]

2d sess. 36th Cong., J. of S., 360.] MARCH 2, 1861.

Mr. Sumner rose to a privileged question; and moved that the following entry in the Journal of yesterday, to wit:

"The joint resolution (H. R. 80) to amend the Constitution of the United States was read the first and second times by unanimous consent," be corrected so that the same shall read:

The joint resolution (H. R. 80) to amend the Constitution of the United States was read the first time.

After debate,

On the question to agree to the motion of Mr. Sumner,

It was determined in the affirmative, { Yeas ..... 24 / Nays 17

So the motion of Mr. Sumner was agreed to.

[Cong. Globe, 2d sess. 36th Cong., 1338.]

1st. sess. 45th Cong., J. of S.] NOVEMBER 21, 1877.

On motion by Mr. Thurman,

The Senate proceeded to consider the resolution yesterday submitted by him to discharge the Committee on Privileges and Elections from the further consideration of the credentials of M. C. Butler; and

After debate,

On motion by Mr. Hoar that the resolution lie on the table,

Mr. Conkling demanded the yeas and nays; which were ordered.
On motion by Mr. Thurman that the Senate proceed to the consideration of executive business,

It was determined in the affirmative, { Yeas ..... 3[illegible]
Nays ..... 2[illegible]

[The names are omitted.]
So the motion was agreed to.
On motion by Mr. McMillan, at 3 o'clock and 50 minutes p. m.,
The Senate adjourned.

Cong. Record, 1st sess. 45th Cong., 571.] THURSDAY, *November 22, 1877.*

The Journal of the proceedings of yesterday having been read,
On motion by Mr. Thurman to amend the same by inserting after the motion of Mr. Hoar, that the resolution to discharge the Committee on Privileges and Elections from the further consideration of the credentials of M. C. Butler lie on the table, the words *Mr. Conkling demanded the yeas and nays, which were ordered,*
It was determined in the affirmative.
On motion by Mr. Thurman to further amend the Journal by adding after the words inserted, the words *and thereupon, by unanimous consent, Mr. Hoar withdrew his motion,*
After debate,
Mr. Thurman withdrew the motion, and the Journal was approved.

1st sess. 45th Cong., J. of S., Cong. Rec., 599.] WEDNESDAY, *November 28, 1877.*

The Journal of the proceedings of Monday having been read,
On motion by Mr. Edmunds the same was amended by inserting after the motion of Mr. Thurman that M. C. Butler be sworn the words *Mr. Edmunds objected to the consideration of the motion this day.*
The Journal was then approved.

EXPUNGING.

3 J. of S., 360.] FEBRUARY 20, 1804.

On motion
To correct the Journal of the 18th instant and to expunge therefrom the following words, to wit:
"Mr. Logan notified the Senate that he should, on Monday next, ask leave to bring in a bill laying a duty on slaves imported into the United States."

It passed in the negative, { Yeas 5
Nays 21

4, J. of S., 97.] APRIL 21, 1806.

On motion
That everything in the Journals relative to the memorials of S. G. Ogden and William S. Smith be expunged therefrom.

It passed in the affirmative, { Yeas 13
Nays 8

2d sess. 23d Cong., J. of S., 200.] FEBRUARY 27, 1835.

The following motion, submitted by Mr. Benton, was considered:
Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words: "*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both," be, and the same is hereby, ordered to be expunged from the Journals of the Senate, because the said resolution is illegal and unjust, of evil example, indefinite and vague, expresses a criminal charge without specification, and was illegally and unconstitutionally adopted by the Senate, in subversion of the rights of defense which belong to an accused and impeachable officer; and at a time and under circumstances to involve the political rights and pecuniary interest of the people of the United States in serious injury and peculiar danger.

Ann. of Cong., 2d sess. 23d Cong., 631.]
On motion by Mr. Preston
Ordered, That it be laid on the table.

[March 3, the words "ordered to be expunged from the Journal of the Senate" were stricken from the resolution, yeas 39, nays 7, and the resolution was laid on the table. Ann. of Cong., 2d sess. 23d Cong., 723.]

2d sess. 24th Cong., J. of S., 81.] JANUARY 3, 1837.

The following motion, submitted by Mr. Benton, was considered:

Whereas on the 26th day of December, in the year 1833, the following resolve was moved by the Senate:

"*Resolved*, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his own sense of duty, remove the money of the United States from deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted him by the Constitution and laws, and dangerous to the liberties of the people."

Which proposed resolve was altered and changed by the mover thereof, on the 28th day of March, in the year 1834, so as to read as follows:

"*Resolved*, That in taking upon himself the responsibility of removing the deposit of public money from the Bank of the United States, has assumed the exercise of a power over the Treasury of the United States not granted to him by the Constitution and laws, and dangerous to the liberties of the people."

Which resolve, so changed and modified by the mover thereof, on the same day and year last mentioned, was further altered so as to read in these words:

"*Resolved*, That the President, in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."

In which last-mentioned form the said resolve, on the same day and year last mentioned, was adopted by the Senate and became the act and judgment of that body, and as such now remains upon the Journal thereof.

And whereas the said resolve was irregularly, illegally, and unconstitutionally adopted by the Senate, in violation of the rights of defense which belong to every citizen, and in subversion of the fundamental principles of law and justice; because President Jackson was thereby adjudged and pronounced to be guilty of an impeachable offense, and a stigma placed upon him as a violator of his oath of office and of the laws and Constitution which he has sworn to preserve, protect, and defend, without going through the form of an impeachment, and without allowing to him the benefits of a trial or the means of defense;

And whereas the said resolve in all its various aspects and forms, was unfounded and erroneous in point of fact, and therefore unjust and unrighteous, as well as irregular and unconstitutional, because the said President Jackson neither in the act of dismissing Mr. Duane nor in the appointment of Mr. Taney, as specified in the first form of the resolve; nor in taking upon himself the responsibility of removing the deposits, as specified in the second form of the same resolve; nor in any act which was then, or can now be specified in the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or in derogation of the laws and Constitution, or dangerous to the liberties of the people.

And whereas the said resolve as adopted was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and Constitution, and assuming ungranted power and authority in the late executive proceedings in relation to the public revenue, without specifying what part of the executive proceedings or what part of the public revenue was intended to be referred to, or what parts of the law or Constitution were supposed to have been infringed, or in what part of the Union or at what period of his administration these late proceedings were supposed to have taken place, thereby putting each Senator at liberty to vote in favor of the resolve upon separate and secret reason of his own, and leaving the ground of the Senate's judgment to be guessed at by the public and to be differently and diversely interpreted by individual Senators, according to the private and particular understanding of each. Contrary to all the ends of justice and to all forms of legal or judicial proceeding, to the great prejudice of the accused, who could not know against what to defend himself, and to the loss of Senatorial responsibility by shielding Senators from public accountability for making up a judgment upon grounds which the public could not know, and which, if known, might prove to be insufficient in law or unfounded in fact;

And whereas, the specification contained in the first and second forms of the resolve having been objected to in debate and shown to be insufficient to sustain the charges they were adduced to support, and it being well believed that no majority could be obtained to vote for the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate in consequence of such objection and belief and before any vote taken thereon, the said specifications

could not afterwards be admitted by any rule of parliamentary practice or by a principle of legal implication, secret intendment, or mental reservation to rem and continue a part of the written and published resolve from which they were th withdrawn; and if they could be so admitted they would not be sufficient to susta the charge therein contained;

And whereas the Senate being the constitutional tribunal for the trial of the Pre dent when charged by the House of Representatives with offenses against the la and Constitution, the adoption of said resolve before any impeachment submitte by the House was a breach of the privilege of the House, a violation of the Consti tution, a subversion of justice, a prejudication of the question which might legall come before the Senate, and a disqualification of that body to perform its constitu tional duty with fairness and impartiality, if the President should thereafter b regularly impeached by the House of Representatives for the same offence;

And whereas the temperate, respectful, and argumentative defense and protest of the President against the aforesaid proceedings of the Senate was rejected and repulsed by that body, and was voted to be a breach of its privilege and was not permitted to be entered on its Journal, or printed among its documents, while all memorials, petitions, resolves, and remonstrances against the President, however violent or unfounded and calculated to inform the people against him, were duly and honorably received, encomiastically commented upon in speeches, read at the table, ordered to be printed with a long list of names attached, referred to the Finance Committee for its consideration, filed away among the public archives, and now constitute a part of the public documents of the Senate, to be handed down to the latest posterity;

And whereas the said resolve was introduced, debated, and adopted at a time and under circumstances which had the effect of coöperating with the Bank of the United States in the parricidal attempt which that institution was then making to produce a panic and pressure in the country; to destroy the confidence of the people in President Jackson; to paralyze his administration; to govern the elections; to bankrupt the State banks, ruin their currency, fill the whole Union with terror and distress, and thereby to extort from the sufferings and alarms of the people the restoration of the deposits and the renewal of its charter;

And whereas said resolve is of evil example and dangerous precedent and should never have been received, debated, or adopted by the Senate or admitted to entry upon its Journal: Wherefore,

Resolved, That the said resolve be expunged from the Journal; and for that purpose that the Secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript Journal of the session 1833–1834 into the Senate, and in the presence of the Senate draw black lines around said resolve and write across the face thereof, in strong letters, the following words: "Expunged by order of the Senate, this —— day of ———, in the year of our Lord 1836."

[January 16, the resolution was amended by striking out the words in the last paragraph of the first page, "irregularly, illegally, and unconstitutionally" and inserting "not warranted by the Constitution, was irregularly and illegally;" also by striking out, second page, line 9, the word "unconstitutionally," and inserting "unauthorized by the Constitution;" and by striking out, third page, third line, the words "a violation of the Constitution," and inserting "not warranted by the Constitution," and the blanks were filled by 16th and January.]

So the resolution was agreed to—yeas 24, nays 19.

Whereupon

The Secretary of the Senate did, in compliance therewith, bring the manuscript Journal of the session 1833-'34 into the Senate, and did in the presence of the Senate draw black lines around said resolve and write across the face thereof, in strong letters, the words "Expunged by order of the Senate, this 16th day of January, in the year of our Lord 1837."

[Ann. of Cong., 2d sess. 24th Cong., 429.]

2d sess. 25th Cong., J. of S., 48.] DECEMBER 14, 1837.

Mr. Bayard submitted the following order for consideration, which was read and ordered to be printed:

Whereas the Senate of the United States, in the exercise of its functions as a deliberative assembly, did on the 28th day of March, 1834, adopt the following resolve:

[The resolutions in the third form *v. supra*, p. 105.]

And whereas afterwards, to wit, on the 16th day of January, 1837, the Senate in reference to the above resolution adopted another as follows:

[*v. supra.*]

And whereas the Constitution of the United States expressly requires that each House of Congress shall keep a journal of its proceedings, meaning thereby to preserve a faithful and permanent record of its proceedings;

And whereas the Senate independently of its legislative, executive, and judicial functions, has the inherent right of a deliberative assembly to express its opinions, which can be done only by resolution;

And whereas opinions when thus expressed become part of these proceedings, of which the Constitution provides that a permanent record shall be kept;

And whereas the resolution of the 16th of January, 1837, and the act of the Secretary of the Senate in compliance with it, destroyed and, in fact, defaced the record of the proceedings to which it refers: Therefore

Resolved, That the resolution of the 16th of January, 1837, commonly called the expunging resolution, be and the same is hereby rescinded and shall be forever hereafter held as nought, and that portion of the journal which contains the resolution of 1833–'34, and in all copies which may hereafter be made of the same for any special or legal purpose, the said resolution of 1833–'34 shall be published and kept as it was originally entered on the said journal, without any notice whatever of the superscription which was erroneously, irregularly, and unconstitutionally made in pursuance of the resolution of the 16th of January, 1837.

ABSENTEES.

March 4, 1789, there being no quorum present the Senators attending, adjourned from day to day until March 11, when they addressed a letter to their absent colleagues, urging them to attend as soon as possible. Another request was sent on the 18th, and it was not until April 6 that a quorum was obtained.

Rule XIX, one of the rules first adopted, forbids any Senator to absent himself without leave. June 25, 1798, the rule was amended by authorizing the minority, in the absence of a quorum, to send the Sergeant-at-Arms or any other person authorized for the purpose for absent members. May 15, 1798, the Secretary was directed to request the attendance of the members absent without leave and those whose leave had expired. Absent Senators were commanded to attend May 21, 1826, and May 29, 1830. April 12, 1830, it was proposed to deduct from a Senator's compensation the per diem allowance for the number of days he should have been absent without leave, but the motion was withdrawn. May 4, 1864, it was ordered that the names of Senators absent during a call of the yeas and nays be printed in a separate list in the publication of the proceedings.

August 6, 1850, the Sergeant-at-Arms was directed to request the attendance of absent members. In 1877 the form of the rule provided that Senators present might direct the Sergeant-at-Arms to "request, and when necessary to compel, the attendance of absent Senators." Under this rule the Senate decided February 24, 1879, that a motion to "request" must precede a motion to compel attendance.

Several instances of proceedings under this rule will be found below.

1 J. of S., 5.] MARCH 4, 1789.

[Eight Senators were present and took their seats.]

The number not being sufficient to constitute a quorum, they adjourned from day to day until

WEDNESDAY, *March 11, 1789.*

The same members present as on the 4th; agreed that the following circular letter should be written and sent to the absent members, requesting their immediate attendance.

NEW YORK, *March 11, 1789.*

SIR: Agreeably to the Constitution of the United States, eight members of the Senate and eighteen members of the House of Representatives have attended here since the 4th of March. It being of the utmost importance that a quorum sufficient to proceed to business be assembled as soon as possible, it is the opinion of the gentlemen of both Houses that information of their situation be immediately communicated to the absent members.

We apprehend that no arguments are necessary to evince to you the indispensable necessity of putting the Government into immediate operation, and therefore earnestly request that you will be so obliging as to attend as soon as possible.

We have the honor to be, sir, your obedient, humble servants,

JOHN LANGDON.
PAINE WINGATE.
CALEB STRONG.
WILLIAM S. JOHNSON.
OLLIVER ELLSWORTH.
ROBERT MORRIS.
WILLIAM MACLAY.
WILLIAM FEW.

To the honorable—
TRISTRAM DALTON.
WILLIAM PATTERSON.
JONATHAN ELLMER.
GEORGE READ.
RICHARD BASSETT.
CHARLES CARROLL.
JOHN HENRY.
RICHARD HENRY LEE.
WILLIAM GRAYSON.
RALPH IZARD.
PIERCE BUTLER.
JAMES GUNN.

TUESDAY, *March 12, 1789.*

Present as yesterday.

The number sufficient to make a quorum not appearing, they adjourned from day to day until

WEDNESDAY, *March 18, 1789.*

Present, the same as on the 12th.

Agreed that the following circular letter should be written to eight of the absent members, urging their immediate attendance:

NEW YORK, *March 18, 1789.*

SIR: We addressed a letter to you on the 11th instant, since which no Senator has arrived. The House of Representatives will probably be formed in two or three days. Your presence is indispensably necessary. We therefore again earnestly request your immediate attendance and are confident you will not suffer our, and the public anxious expectations to be disappointed.

We have the honor to be, sir, your obedient, humble servants,

JOHN LANGDON.
PAINE WINGATE.
CALEB STRONG.
WILLIAM S. JOHNSON.
OLLIVER ELLSWORTH.
ROBERT MORRIS.
WILLIAM MACLAY.
WILLIAM FEW.

To the honorable—
JONATHAN ELLMER,
WILLIAM PATTERSON,
GEORGE READ.
RICHARD BASSETT.
CHARLES CARROLL.
JOHN HENRY.
RICHARD HENRY LEE.
WILLIAM GRAYSON.

[A quorum was not obtained until April 6, 1789.]

[See Ann. of Cong., Vol. I, 16.]

RULES.

J. of S., 13.] APRIL 16, 1789.

[Rule] XIX. No person shall absent himself from the service of the Senate without leave of the Senate first obtained.

2 J. of S., 127.] NOVEMBER 21, 1794.

Ordered, That Messrs. Langdon, Izard, and Burr be a committee to report such rules as may be necessary to compel the attendance of members of the Senate.

2 J. of S., 421.] JANUARY 9, 1798.

A motion was made to amend the nineteenth rule for doing business in the Senate, by subjoining, "*and on motion of any member there shall be a call of the Senate, at the expiration of one hour after that to which the House stood adjourned, whether there be a quorum or not; and in case there is not a quorum on such call, the members present may, if they think proper, request the attendance of absentees, who are in the town or neighborhood where the Senate are convened. And on the next day if a quorum shall not be present, the members present shall have authority to send for any absent member, whether he be in the town where the Senate shall convene or not, by any person by them authorized, requesting his attendance, at the expense of such member, unless he shall make such excuse for non-attendance as shall by the Senate be judged sufficient.*

[The motion was referred to a committee, which reported June 8, 1798, ib. 503, 517.]

Ib., 517.] JUNE 25, 1798.

Resolved, That the following be added to the nineteenth rule:

And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons, by them authorized, for any or all absent members as the majority of such members present shall agree, at

the expense of such absent members, respectively, unless such excuse for nonattendance shall be made as the Senate, when a quorum is convened, shall judge sufficient; and in that case the expense shall be paid out of a contingent fund. And this rule shall apply as well to the first convention of the Senate at the regular time of meeting as to each day of the session after the hour has arrived to which the Senate stood adjourned.

2d sess. 44th Cong., J. of S., 117.] JANUARY 17, 1877.

[Rule] 3. No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, the majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order.

[Cong. Rec., 2d sess. 44th Cong., 690.]

PRACTICE.

2 J. of S., 489.] MAY 15, 1798.

Resolved, That the Secretary of the Senate be directed to write to all such Senators as are absent without leave, or whose leave of absence has expired, requesting their immediate attendance.

1st sess. 19th Cong., J. of S., 402.] MAY 21, 1826.

A quorum of the Senate not being present,

On motion by Mr. Eaton,

The following order was adopted and issued:

Ordered, That the Sergeant-at-Arms forthwith summon and command the absent members of the Senate to be and appear before the Senate immediately; and that he take all practicable means to enforce their attendance.

By order of the Senate, 20 minutes after 3 o'clock of the 21st May, 1826.

NATHANIEL MACON,
President pro tempore.

Attest:
WALTER LOWRIE, *Secretary.*

[A similar order was adopted May 29, 1830 (1st sess. 21st Cong., J. of S., 354).

March 2, 1841, the Sergeant-at-Arms was directed to summon the absent members (2d sess. 26th Cong., J. of S., 272). The practice of "requesting" the attendance of Senators seems to have begun August 6, 1850, when the Sergeant-at-Arms was directed "to request the attendance, forthwith, of the absent Senators." No return was made, as the Senate immediately adjourned.

The attendance of absent Senators has been "requested" on the following dates: March 1, 1853 (2d sess. 32d Cong., J. of S., 265); March 15, 1858 (1st sess. 35th Cong., J. of S., 256); February 25, 1859 (2d sess. 35th Cong., J. of S., 380); June 18, 1860 (1st sess. 36th Cong., J. of S., 786); April 20, 1872 (2d sess. 42d Cong., J. of S., 581); February 24, 1879 (3d sess. 45th Cong., J. of S., 363); February 23, 1883 (2d sess. 47th Cong., J. of S., 404); July 31, 1890 (1st sess. 51st Cong., J. of S., 448); August 7, 1890 (1st sess. 51st Cong., J. of S., 454); January 21, 1891 (1st sess. 51st Cong., J. of S., 88); February 18, 1891 (2d sess. 51st Cong., J. of S., 155). The more important cases are given below.

In the Congressional Globe (2d sess. 35th Cong., 1346), is a discussion by Mr. Johnson of the right of the Chair to decide that a quorum is present.

May 9, 1860, a resolution that the Sergeant-at-Arms be directed to request the attendance of absent Senators was determined in the negative. Yeas 15, nays 33. (1st sess. 36th Cong., J. of S., 449; Cong. Globe, 1st sess. 36th Cong., 2005.)

See Cong. Globe, 1st sess. 35th Cong., App. 118, for a decision of the Chair on the question of calling for excuses.]

2d sess. 42d Cong., J. of S., 581.] APRIL 20, 1872.

The number of Senators voting not constituting a quorum of the Senate,

On motion by Mr. Blair, at 8 o'clock and 30 minutes p. m., that the Senate adjourn,

It was determined in the negative.

Whereupon,

On motion by Mr. Conkling that the Sergeants-at-Arms be directed to request the attendance of absent Senators,

It was determined in the affirmative, { Yeas 16
{ Nays 8

[The names are omitted.]

So the motion was agreed to,

Whereupon

The Presiding Officer (Mr. Ferry, of Michigan, in the chair) directed the Sergeant-at-Arms to execute the order of the Senate, and request the attendance of the absent Senators.

On motion by Mr. Cameron, at 9 o'clock and 30 minutes p. m., that the Senate adjourn,

It was determined in the negative, { Yeas ..... 16 / Nays 18

[The names are omitted.]

So the motion to adjourn was not agreed to.

The Presiding Officer (Mr. Ferry, of Michigan, in the chair) here announced that the Sergeant-at-Arms had reported that he had executed the order of the Senate, to request the attendance of absent Senators; but that it still appeared by the vote just taken that a quorum of the Senate was not present.

Whereupon

Mr. Howe submitted a motion that the Sergeant-at-Arms be directed to compel the attendance of such number of absent Senators as would make a quorum of the Senate; and

After debate,

On motion by Mr. Tipton, at 10 o'clock and 10 minutes p. m., that the Senate adjourn,

It was determined in the negative, { Yeas ..... 17 / Nays 18

[The names are omitted.]

So the motion to adjourn was not agreed to.

The question recurring on the motion of Mr. Howe,

Mr. Pomeroy made a point of order, viz., that the Senate having made no provision in its rules for compelling the attendance of absent Senators, which could only be made by a quorum of the body, it was not in the power of a minority of the Senate, by adopting the proposed order, to change the existing rule on the subject, and that the motion of Mr. Howe was therefore not in order.

The Presiding Officer (Mr. Ferry, of Michigan, in the chair) sustained the point of *order*, and ruled the motion of Mr. Howe not in order.

On motion by Mr. Pomeroy, at 10 o'clock and 15 minutes p. m.,

The Senate adjourned.

3d sess. 45th Cong., J. of S., 363.] FEBRUARY 24, 1879.

A further amendment having been proposed by Mr. Edmunds [the Senate having under consideration a Bill to Prevent the Introduction of Contagious or Infectious Diseases into the United States and to establish a Bureau of Public Health],

On the question to agree thereto

The absence of a quorum was disclosed,

Whereupon

The Presiding Officer (Mr. Cameron, of Wisconsin, in the chair) directed the roll to be called, and

Thirty-four Senators answered to their names.

[A motion to adjourn was not agreed to, a quorum voting.]

The question recurring on agreeing to the amendment proposed by Mr. Edmunds,

[The yeas and nays were taken.]

The number of Senators voting not constituting a quorum of the Senate,

The Presiding Officer directed the roll to be called, and

Forty-four Senators answered to their names.

The number of Senators voting not constituting a quorum of the Senate,

On motion by Mr. Harris that the Sergeant-at-Arms be directed to compel the attendance of absent Senators,

Mr. Merrimon raised the question of order, viz: That under the third rule of the Senate the motion should be preceded by a motion to request the attendance of absent Senators.

The Presiding Officer submitted the question to the Senate, Should the motion to compel be preceded by a motion to request the attendance of absent Senators? and

It was determined in the affirmative, { Yeas ..... 24 / Nays 12

[The names are omitted.]

So it was determined that a motion to compel should be preceded by a motion to request the attendance of absent Senators; and

On motion by Mr. Harris,

Ordered, That the Sergeant-at-Arms be directed to request the attendance of absent Senators.

[Pending the execution of the order a motion to adjourn was lost, 12:30 a. m. Tuesday.]

On motion by Mr. Ingalls that further proceedings under the order be dispensed with,

It was determined in the negative, { Yeas ..... 5 / Nays 26

[The names are omitted.]

The number of Senators voting not constituting a quorum, and

The Sergeant-at-Arms having in obedience to the order of the Senate requested the attendance of absent Senators, reported their several responses; when,

On motion by Mr. Harris,

Ordered, That the Sergeant-at-Arms be directed to compel the attendance of absent Senators, excepting those detained on account of sickness.

The Sergeant-at-Arms having in obedience to the second order of the Senate waited upon absent Senators, reported the several responses to his request for their attendance,

Whereupon,

On motion by Mr. Morgan, that the Sergeant-at-Arms be directed to compel the attendance of Mr. Conkling,

On motion by Mr. Harris to amend the motion by striking out all after the word "directed" and in lieu thereof inserting, to use all necessary means to compel the attendance of absent Senators, except those detained by sickness,

It was determined in the affirmative, { Yeas ..... 32 / Nays 10

[The names are omitted.]

So the amendment was agreed to, and

The motion of Mr. Morgan, as amended, was agreed to.

On motion by Mr. Paddock that further proceedings under the order be dispensed with,

It was determined in the negative, { Yeas ..... 15 / Nays 24

[The names are omitted.]

The announcement of the vote having disclosed the presence of a quorum,

[The Senate proceeded with its business, and adjourned at 4:40 a. m., Tuesday.]

[Cong. Rec., 3d sess. 45th Cong., 1844–1857.]

2d sess. 47th Cong., J. of S., 404.] FEBRUARY 23, 1883.

The number of Senators voting not constituting a quorum,

The Presiding Officer (Mr. Morgan, in the Chair) directed the roll to be called.

Thirty-six Senators answered as their names were called.

The number of Senators responding not constituting a quorum,

On motion by Mr. Edmunds that the Sergeant-at-Arms be directed to request the attendance of absent Senators,

[A motion to adjourn failed, 6:33 p. m., and the question recurring on Mr. Edmunds's motion.]

It was determined in the affirmative, { Yeas ..... 19 / Nays 11

[The names are omitted.]

So the motion was agreed to.

The Sergeant-at-Arms proceeded to execute the order of the Senate.

At 8 o'clock p. m. the Sergeant-at-Arms, in obedience to the order of the Senate directing him to request the attendance of absent Senators, submitted the following report:

To the President of the Senate:

In execution of the order of the Senate to request the attendance of absent Senators the Secretary reported the following absent: (Thirty-six senators named); of these (six named) are absent from the city; sick and unable to attend (five named); a number of Senators are reported to be at a dinner at Senator Chandler's, where the host refused admission to the officers sent to notify them; Senators Groome, Kellogg, and Saulsbury could not be found; officers are in search of the remainder.

Respectfully,

R. J. BRIGHT.

[At 8 p. m. a motion to adjourn was lost.]

The number of senators voting not constituting a quorum, the Presiding Officer directed the roll to be called,

When
Thirty Senators answered as their names were called.
The number of Senators responding not constituting a quorum, Mr. Edmunds submitted the following order:
Ordered, That the Sergeant-at-Arms bring into the Senate forthwith the following-named Senators, now absent from this sitting of the Senate without its leave, namely:
[The names may be found at p. 405 of the Journal.]
[At 8:10 a motion to adjourn was lost, 8 to 17.]
The question recurring upon the order submitted by Mr. Edmunds to compel the attendance of absent Senators,
Mr. Jones demanded a call of the Senate.
The Presiding Officer decided that the demand for a call of the Senate was not in order, pending the proceedings under the previous call.
[Mr. Jones appealed, but the appeal was not sustained, and a motion to adjourn was made and lost.]
The question recurring on the order submitted by Mr. Edmunds to compel the attendance of absent Senators,
Mr. Jones raised the question of order, viz, that the number of Senators voting not constituting a quorum under rule 3, the roll should be called.
The Presiding Officer overruled the question of order and decided that the Senate had already taken affirmative action on that proposition.
From the decision of the Chair, Mr. Jones appealed to the Senate.
[The Chair was sustained, yeas 19, nays 7. A motion to adjourn was determined in the negative, yeas 10, nays 16, at 8:35 p. m. The question recurring on Mr. Edmunds' motion,]
Mr. Maxey raised a question of order, viz, that the Sergeant-at-Arms having failed to execute the previous order of the Senate, requesting the attendance of absent Senators, the motion to compel their attendance was not now in order.
The Presiding Officer (Mr. Gorman, in the Chair) overruled the question of order.
[On appeal, the Chair was sustained, yeas 21, nays 6. The Senate finally adjourned at 10 p. m., without action on the motion.]
[*Cong.* Rec., 2d sess. 47th Cong., 3179-3187.]

1st sess. 51st Cong., J. of S., 448.] JULY 31, 1890.
On motion by Mr. Edmunds to amend the Journal in the first paragraph, where the absence of a quorum is disclosed, by inserting the names of the Senators then present and who responded to the call of the roll,
After debate,
It was determined in the negative.
[Cong. Rec., 1st sess. 51st Cong., 7940-7941.]

2d sess. 51st Cong., J. of S., 81.] JANUARY 16, 1891.
On motion by Mr. Hoar,
Ordered, That the Sergeant-at-Arms be directed to request the attendance of absent Senators.
The Sergeant-at-Arms having, in obedience to the order of the Senate, requested the attendance of absent Senators and reported several responses; and at 2 o'clock and 12 minutes a. m., a quorum still being wanting,
On motion by Mr. Edmunds,
Ordered, That the Sergeant-at-arms be directed to use all necessary means to compel the attendance of absent Senators, excepting those detained on account of sickness.
At four o'clock and thirty minutes a. m., the Sergeant-at-Arms, in obedience to the order of the Senate, directing him to compel the attendance of the absent Senators, submitted the following report:

UNITED STATES SENATE,
January 17, 1891, 4:30 a. m.

SIR: In obedience to the following order received by me at 2:30 a. m.,
Ordered, That the Sergeant-at-Arms be directed to use all necessary means to compel the attendance of absent Senators excepting those detained on account of sickness—
I executed the same by notifying the Senators Evarts, Call, Dawes, Daniel, Jones of Arkansas, Gray, Coke, Kenna, and Bate, who responded to the same by appearing in the Senate Chamber. Senators Hampton, Ingalls, Ransom, Butler, Sherman, Wilson of Maryland, and Wolcott reported themselves sick, and Senator Berry answered that he was not ready to come. Could not gain entrance to the residence of Senator

Barbour. Party responded at door of Senator Stanford; answered "Is not in." At Senator Turpie's there was no response. The order is being executed by the deputy sergeant-at-arms at this time.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms.

To the PRESIDENT OF THE SENATE.

He subsequently submitted the following reports:

UNITED STATES SENATE,
January 17, 1891—5 o'clock a. m.

SIR: I have the honor to further report that Senator McPherson reports himself sick. Senators Morgan, Carlisle, and Stewart can not be found. Senators Blackburn and George responded that they would report at once.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms.

To the PRESIDENT OF THE SENATE.

UNITED STATES SENATE,
January 17, 1891—5 o'clock a. m.

SIR: In obedience to the last order of the Senate, under a roll call handed me at 4:40 a. m., I served summons on Senators Coke and Vance, who responded by entering the Senate Chamber. Found Senator Berry in the cloak room of the Senate, who requested me to report to the Senate that he would come when he got ready. Also found Senator Butler in the court room, who refused to obey the summons.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms.

To the PRESIDENT OF THE SENATE.

At 5 o'clock and 45 minutes a. m., a quorum having appeared,
And
The question recurring on the amendment of Mr. Faulkner,
Pending debate,
On motion by Mr. Gorman, at 6 o'clock a m., that further proceedings under the call be dispensed with,
It was determined in the negative, { Yeas 5
Nays 23
[The names are omitted.]
So the motion was not agreed to.
The number of Senators voting not constituting a quorum,
The Vice-President directed the roll to be called,
When
Thirty-four Senators answer to their names.
At 6 o'clock and 20 minutes a. m. the Sergeant-at-Arms submitted the following additional report:

UNITED STATES SENATE,
January 17, 1891—6:20 a. m.

SIR: I have the honor to further report that Senators Reagan and Vest, in response to the order of the Senate, responded that they would report immediately. Senator Voorhees reports himself sick. Senators Pugh and Walthall can not be found in the city of Washington. Senators Brown, Blodgett, Chandler, Fowler, Blair, Squire, Moody, and Pettigrew are absent from the District of Columbia.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms.

2d sess. 51st Cong., J. of S., p. 88.] JANUARY 21, 1891.

Debate still pending on the motion of Mr. Gorman to amend the Journal, Mr. Vest being on the floor,
At 6 o'clock and 30 minutes p. m.,
Mr. Harris raised the question as to the presence of a quorum,
Whereupon
[It appeared that a quorum was not present, and the Sergeant-at-Arms was directed to request the attendance of absent Senators. A quorum was obtained and the debate proceeded, when the absence of a quorum was again disclosed. The

attendance of absent Senators was requested a second time, and a quorum was obtained. The question was raised a third time, and]

A quorum not being present,

On motion of Mr. Aldrich,

Ordered, That the Sergeant-at-Arms be directed to request the attendance of absent Senators.

At 10 o'clock and 10 minutes p. m. the Sergeant-at-Arms submitted the following report:

SERGEANT-AT-ARMS, UNITED STATES SENATE,
Washington, January 21, 1891.

SIR: In obedience to the order of the Senate received by me at 9:40 p. m., directing that I request the attendance of absent Senators, I have the honor to report that I have requested the attendance of Senators Sawyer and Spooner, who responded that they would come at once; also Senators Falkner, Gorman, Berry, Coke, and Carlisle, who were enjoying lunch in Democratic conference room of the Senate, and they responded that they would come when they got through their lunch. The order is being further executed by deputy sergeant-at-arms.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms, United States Senate.

On motion by Mr. Aldrich that the Sergeant-at-Arms be directed to use all necessary means to compel the attendance of absent Senators excepting those detained on account of illness,

It was determined in the affirmative, { Yeas ..... 23 / Nays 6

[The names are omitted.]

So the motion was agreed to.

On motion by Mr. Gray that the Senate reconsider its vote directing the Sergeant-at-Arms to compel the attendance of absent Senators,

The Presiding Officer ruled that the motion was not in order, as it was not a motion prescribed in Rule III, clause 5, which could be entertained in the absence of a quorum.

From the decision of the Chair Mr. Gray appealed to the Senate, and

On the question shall the decision of the Chair stand as the judgment of the Senate?

It was determined in the affirmative, { Yeas ..... 23 / Nays 5

[The names are omitted.]

So the decision of the Chair was sustained.

Mr. Morgan called for the reading of the order last agreed to; and

The same having been read,

Mr. Gray rose to a question of order.

The Presiding Officer declined to entertain the question of order on the ground that pending the execution of the order, and in the absence of a quorum, no debate or motion, except to adjourn, was in order.

At 10 o'clock and 25 minutes p. m., a quorum having appeared,

Mr. Gray raised a question of order, namely, that it was not within the competency of the Senate, no quorum being present, under its present rules, to order the Sergeant-at-Arms of the Senate to take all necessary means to compel the attendance of absent Senators.

The Presiding Officer overruled the question of order as being made too late.

From the decision of the Chair Mr. Gray appealed to the Senate; and

On the question, "Shall the decision of the Chair stand as the judgment of the Senate?"

On motion by Mr. Aldrich that the appeal lie on the table,

The yeas were 29 and the nays were 7.

The number of Senators voting not constituting a quorum,

The Presiding Officer directed the roll to be called,

When

Forty-eight Senators answered to their names.

A quorum being present, and the question recurring upon the motion of Mr. Aldrich to lay on the table the appeal taken by Mr. Gray from the decision of the Chair,

The yeas were 30 and the nays were 9.

The yeas and nays having been heretofore ordered,

Those who voted in the affirmative are (the names are omitted).

The number of Senators voting not constituting a quorum,

The Presiding Officer directed the roll to be called.

When
Forty-five Senators answered to their names.
A quorum being present, and the question recurring upon the motion of Mr. Aldrich to lay the appeal on the table,
The yeas were 29 and the nays were 9.
The yeas and nays having been heretofore ordered,
Those who voted in the affirmative are (the names are omitted).
The number of Senators voting not constituting a quorum,
The Presiding Officer again directed the roll to be called,
When
Forty-five Senators answered as their names were called.
A quorum being present, and the question again recurring upon the motion of Mr. Aldrich to lay the appeal on the table,
The yeas were 27 and the nays were 7.
Those who voted in the affirmative are (the names are omitted).
The number of Senators voting not constituting a quorum,
The Presiding Officer directed the roll to be called,
When,
Forty-one Senators answered to their names.
On motion by Mr. Wolcott, at 11 o'clock and 35 minutes p. m., that the Senate adjourn,

It was determined in the negative, { Yeas 7
{ Nays 25

[The names are omitted.]

So the motion was not agreed to.
At 11 o'clock and 45 minutes p. m. a quorum having appeared, and
The question recurring on the motion of Mr. Aldrich to lay the appeal on the table,
The yeas were 23, and the nays were 6.
[The names are omitted.]
The number of Senators voting not constituting a quorum,
The Presiding Officer directed the roll to be called,
When
Thirty-nine Senators answered to their names.
At 11 o'clock and 50 minutes p. m.,
The Sergeant-at-Arms submitted the following report:

UNITED STATES SENATE,
Washington, January 21, 1891.

SIR: In obedience to the order heretofore received I have the honor to further report that I requested the immediate attendance of the following Senators, who responded by appearing in the Senate Chamber: Messrs. Sawyer, Wolcott, Mitchell, Stanford, Spooner, Hale, Call, Frye, and Ransom. The following Senators are reported as being sick: Messrs. Teller, Kenna, and Wilson of Maryland. The following Senators are reported out of the city of Washington: Messrs. Cameron, Chandler, Moody, Pettigrew, Pierce, Quay, and Squire.

Very respectfully,

E. K. VALENTINE,
Sergeant-at-Arms United States Senate.

To the PRESIDENT OF THE SENATE.

On motion by Mr. Aldrich, at 11 o'clock and 55 minutes p. m., the Senate adjourned.
[Cong. Rec., 1st sess. 51st Cong., 1589–1630.]

1st sess. 51st Cong., J. of S., 95.] JANUARY 22, 1891.

Mr. Dolph submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the Committee on the Judiciary be, and they are hereby, directed to inquire and report to the Senate at as early a day as practicable whether clause 3 of Rule V of the Rules of the Senate is such a compliance with the requirements of section 5 of Article I of the Constitution, as to the manner in which the attendance of absent members may be compelled, as to authorize less than a quorum of the Senate when in session to compel the attendance of absent members, and whether a direction by the Senate, less than a quorum being present, to the Sergeant-at-Arms of the Senate to compel the attendance of absent members, as provided for in said third clause of Rule V, is a sufficient warrant and authority to the Sergeant-at-Arms to authorize him to use force, if necessary, in bringing absent Senators to the Senate Chamber.

Ib., 97.] JANUARY 27, 1891.

The President laid before the Senate the resolution yesterday submitted by Mr. Dolph to inquire as to the extent of the authority conferred by clause 3 of Rule V to compel the attendance of absent Senators, and, by unanimous consent,

Ordered, That the consideration thereof be postponed to to-morrow, the resolution retaining its present position.

2d sess. 25th Cong., J. of S., 353.] APRIL 12, 1838.

Mr. Norvell submitted the following motion for consideration:

Resolved, That the Secretary of the Senate be, and he hereby is, directed in settling and adjusting the pay of Senators, to deduct from the per diem allowance the number of days any Senator may hereafter absent himself from the Senate without first obtaining leave of absence, unless he may be unavoidably detained from his seat by his own sickness.

[The following day the motion was considered and withdrawn. (ib., p. 356.) Cong. Globe, 2d sess. 25th Cong., 302, 305. See Stat. 1816, c. 30 (3 Stat. 257), and Stat. 1856, c. 123, sec. 6 (11 Stat., 48).]

2d sess. 37th Cong., J. of S., 97.] JANUARY 10, 1862.

Mr. Rice submitted the following motion for consideration:

Resolved, That $5 be deducted from the pay of every Senator who shall not answer to his name whenever the yeas and nays shall be ordered and called, unless said Senator shall be absent in consequence of sickness, or shall be excused by the Senate.

NAMES OF ABSENTEES PUBLISHED.

1st sess. 38th Cong., J. of S., 402.] MAY 4, 1864.

Resolved, That the reporter be directed, in making up the proceedings of the Senate for the Congressional Globe, to put in a separate list the names of the absentees in each call for the ayes and noes.

[Adopted: Yeas 20, nays 13. Cong. Globe, 1st sess. 38th Cong., 2088–2089]

3d sess. 42d Cong., J. of S., 35.] DECEMBER 6, 1872.

Mr. Edmunds submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the resolution adopted by the Senate on the 4th day of March, 1864, directing the reporter to publish in the Globe the names of absentees on each call of the yeas and nays be, and the same is hereby, rescinded.

1st sess. 43d Cong., J. of S., 70.] DECEMBER 15, 1873.

Mr. Anthony submitted the following resolution; which was referred to the Select Committee on the Revision of the Rules:

Resolved, That the resolution adopted by the Senate on the 4th of May, 1864, directing the reporter, in making up the proceedings of the Senate for publication, to put in a separate list the names of the absentees in each call of the yeas and nays, be rescinded.

Ib., 78.] DECEMBER 17, 1873.

Mr. Ferry, of Michigan, from the Select Committee on the Revision of the Rules, to whom was referred the resolution to rescind the resolution of May 4, 1864, directing the publication, in a separate list, of the names of the absentees in each call of the yeas and nays, reported it without amendment.

ORDER IN DEBATE.

Under the rules first adopted by the Senate it was not clear whether the President of the Senate could call to order a member. In 1826 John C. Calhoun, then Vice-President, declined to call a Senator to order on the ground that he had no such power under the rule. In 1828 the rule was amended and by implication at least conferred this power. The whole subject was discussed by the Vice-President in certain remarks submitted to the Senate April 3, 1850.

The Vice-President exercised this power January 27, 1863, calling to order Mr. Saulsbury. For instances in which Senators have been called to order by members of the Senate see the case of Mr. Davis, February 17, 1864, and Mr. Lamar (by a Senator presiding), March 1, 1879.

J. of S., 13.] APRIL 16, 1789.

[Rule] XVI. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not, and every question of order shall be decided by the President without debate; but if there be a doubt in his mind, he may call for the sense of the Senate.

XVII. If a member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter.

[Ann. of Cong., 1st Cong., 21.]

[G. & S. Reg., Vol. 2, Pt. 1, pp. 571–573.] APRIL 15, 1826.

[Mr. Randolph's motion to rescind the two rules which placed the power of appointing the committees, and the supervision of the Journal, in the presiding officer, was taken up and debated. Mr. Randolph, among other things, said that it was not duty or right of President of the Senate to call to order until a call was made by a member and an appeal made to the Chair.]

The resolutions having been agreed to,

The Vice-President rose and said he trusted that the Senate would indulge him in making a few observations before he resumed his seat, as the debate on the subject just decided had relation necessarily to the duties of the Chair.

"No one more than myself," said the Vice-President, "can be more deeply impressed with the great truth, that the preservation of rights depends, mainly, on *their exercise*. That nation deserved to conquer the world which called its army *exercitus;* and so will the nation deserve that its liberty shall be immortal which lays the foundation of its system of government on the great principles, that no power ought to be delegated which can be fairly exercised by the constituent body, and that none ought ever to be delegated, but to responsible agents. These have been my maxims through the whole of my political life, and I should be inconsistent with myself if I did not give my entire assent to the principles on which the rules in question have been rescinded. I trust," said he, "that it will never be the ambition of him whose lot it is now to occupy this chair, to enlarge its powers. My ambition, I hope, pursues a different direction—not to enlarge powers, but to discharge with industry, fidelity, and firmness the duties which may be imposed on me. Thus feeling, I shall witness, with pleasure, the resumption of all the powers which can be properly exercised by the Senate, as they will be then placed where alone they can be with perfect safety.

"From the direction which the debate in some degree took, as well as what has been said without these walls, it becomes on this occasion proper that I should state, for the information of this body, the construction that the Chair has put on the sixth and seventh rules of the Senate. These are in the following words:

"'When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not, and every question of order

shall be decided by the President without debate; but if there be a doubt in his mind he may call for the sense of the Senate.

"'If the member be called to order for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better able to judge of the matter.'

"The Chair," said the Vice-President, "has bestowed its most deliberate and anxious attention, by night and by day, on the question of the extent of its powers under a correct construction of these rules, and has settled in the conviction that the right *to call to order* on questions touching the *latitude* or *freedom* of debate belongs exclusively to members of this body, and not to the Chair. The power of the presiding officer on these great points is an appellate power only; and, consequently, the duties of the Chair commence when a Senator is called to order by a Senator. Whenever such a call shall be made, the Chair will not be found unprepared to discharge its only function in such a case—that of deciding on the point of order submitted. What the opinion of the presiding officer is in relation to the freedom of debate in this body, it will be time to declare when a question may be presented; but, such as it is, it will be firmly and, I trust I may add, fearlessly maintained. But I rejoice that the rules of the Senate, on a point so important, gave to the Chair no original power, and that it can exercise no control till called on by the Senate itself. It was right in itself," he said, "in strict conformity to the principles which had guided the Senate in the vote just taken, that so high a power should be placed only in the custody of that body."

The Vice-President said he prided himself on his connection with the Senate; but it was impossible that he should forget that that connection was created by the operation of the Constitutiton. In discharging his duty in this seat it would be unpardonable in him not to recollect that he was placed in the chair, not by the voice of the Senate, but by that of the people; and that to them, and not to this body, he was ultimately responsible. Standing in the relation he did to the Senate, he had laid it down as an invariable rule, to assume no power in the least degree doubtful; and to confine himself to a just, but firm, exercise of the powers clearly delegated. In conclusion, he tendered to the Senate his sincere acknowledgments, that in rescinding the rule, such delicate regard had been paid to his feelings in the debate. *Ample* justice had been done to the industry and fidelity with which he had hon*estly* attempted to discharge his arduous duties. Deeming himself called on by the debate that had taken place to say this much in explanation, he begged the indulgence of the Senate for having done so, and resumed his seat.

1st sess. 19th Cong., J. of S., 367.] MAY 19, 1826.

Mr. Holmes submitted the following motion:

Resolved, That a committee be appointed to report such rules and regulations of the Senate as may be expedient.

(1) To require the President of the Senate to call a member to order, and to decide all questions of order, subject to appeal to the Senate.

(2) To make further provision to prevent any member from interrupting a member speaking.

(3) To provide that no member shall indulge in remarks or in debate, previous to submitting a motion or resolution, until such member shall have read such motion or resolution in his place.

(4) To make further provision to prevent members from speaking indecorously or disrespectfully of other members.

(5) To prohibit any member from charging a member of the House of Representatives with a crime or offense.

(6) To inquire whether it is proper that a member should charge any officer of the Government with an impeachable offense.

(7) To inquire how far it is consistent with the dignity of the Senate to allow disrespectful language to a stranger invited into the Senate.

(8) To inquire how far and in what cases it ought to be permitted to a member to speak disrespectfully of the dead.

(9) To inquire whether, by the existing rules, a member has a right to retain a paper or document, which he acknowledges to be in his possession, of a public character, or which he may have read in debate; and whether any further provision be necessary to obtain such paper or document, when the Senate may deem it proper, and that the committee report such rules and regulations on any or all of these inquiries as, under existing circumstances, may be expedient.

The said motion was read and considered; and,

On motion by Mr. Harrison,

Ordered, That it lie on the table.

Mr. Randolph submitted the following motion:

Resolved, That it is inconsistent with the rights and privileges of the States, for

the President of the Senate to call a member to order, and to decide all questions of order subject to an appeal to the Senate.

(2) It is unnecessary to make further provision to prevent any member from interrupting a member speaking.

(3) It is unnecessary to make further provision that no member shall indulge in remarks, or in debate, previous to submitting a motion or resolution, until such member shall have read such motion or resolution in his place.

(4) It is unnecessary to make further provision to prevent members from speaking indecorously or disrespectfully of other members.

(5) It is unnecessary to prohibit any member from charging a member of the House of Representatives with a crime or offense.

(6) It is unnecessary to inquire whether it is proper that a member should charge any officer of the Government with an impeachable offense.

(7) It is unnecessary to inquire how far it is inconsistent with the dignity of the Senate to allow disrespectful language to a stranger invited into the Senate.

(8) It is unnecessary to inquire how far, and in what cases, it ought to be permitted to a member to speak disrespectfully of the dead.

(9) It is unnecessary to inquire whether, by the existing rules, a member has a right to retain a paper or document, which he acknowledges to be in his possession, of a public character, or which he may have read in debate, and whether any further provision be necessary to obtain such paper or document when the Senate may deem it proper.

The said motion was read and considered; and,

On motion by Mr. Eaton,

Ordered, That it lie on the table.

[G. & S. Reg. Vol. 2. Pt. 1, 758.]

1st sess. 20th Cong., J. of S., 160.] FEBRUARY 14, 1828.

The rules for conducting business in the Senate, as amended and arranged, are as follows:

* * * * * * *

6. When a member shall be called to order by the President, or a Senator, he shall sit down; and every question of order shall be decided by the President, without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order.

1st sess. 31st Cong., J. of. S., 248.] APRIL 3, 1850.

The Vice-President asked the indulgence of the Senate, before proceeding to the orders of the day, to submit the following remarks in relation to his own powers and duty to preserve order:

"On assuming the responsible duties as presiding officer of this body, I trusted that no occasion would arise when it would become necessary for the Chair to interpose to preserve order in debate. I could not, however, disguise the fact, that by possibility such a necessity might arise. I therefore inquired of some of the Senators to know what had been the usage on this subject, and was informed that the general practice had been, since Mr. Calhoun acted as Vice-President, not to interfere unless a question of order was made by some Senator.

"I was informed that that distinguished and now lamented person had declined to exercise the power of calling to order for words spoken in debate, on the ground that he had no authority to do so. Some thought the rule had been since changed, and others not; but there still seemed to be a difference of opinion as to the power. Under these circumstances, though my opinion was strongly in favor of the power—with or without a rule to authorize it—I thought it most prudent not hastily to assume the exercise of it, but to wait until the course of events should show that it was necessary. It appears to me that that time has now arrived, and that the Senate should know my opinion on this subject, and the powers which, after mature reflection, I think are vested in the Chair, and the corresponding duties which they impose. If I am wrong in the conclusions at which I have arrived, I desire the advice of the Senate to correct me. I therefore think it better to state them now, when there is an opportunity for a cool and dispassionate examination, rather than wait until they are called into action by some scene of excitement which may be unfavorable to dispassionate deliberation and advice; for while I would shrink from no responsibility which the office with which I am honored imposes upon me, I would most scrupulously avoid the assumption of any power not conferred by the Constitution and rules of this body.

"The question, then, presents itself, 'Has the Vice-President, as presiding officer of this body, the power to call a Senator to order for words spoken in debate?'

"The sixth rule of the Senate is in the following words:

"'When a member shall be called to order by the President, or a Senator, he shall

sit down; and every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order.'

"It will be seen that this rule does not expressly confer the power of calling to order either upon the President or a Senator, but impliedly admits that power in each, and declares the consequences of such call.

"The constitutional provisions bearing upon this subject are very brief. The first is:

"'The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.'

"The next is:

"'Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.'

"The first clause which I have quoted confers no express powers; yet the general powers and duties of a presiding officer in a parliamentary body were well understood by the framers of the Constitution, and it can hardly be doubted that they intended to confer upon the Vice-President those powers, and require of him the performance of those duties. But the powers expressly conferred to make rules to regulate its proceedings, clearly conferred upon the Senate authority to make rules regulating the conduct of all its members, including its presiding officer. What, then, are we to understand from this rule?

"I have availed myself of the leisure afforded by the last recess to look into the history of this rule, that I might, if possible, gather from it the intent of the Senate in adopting it. I find that one of the first acts of this body, in 1789, was to appoint a committee to 'prepare a system of rules for conducting business in the Senate.'

"The committee reported a number of rules, which were adopted; and among the rest the two following:

"'16. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

"'17. If the member be called to order for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter.'

"These rules remained the same until 1828; but in 1826 Mr. Calhoun, then Vice-President, declared that, in his opinion, he had no authority to call a Senator to order for words spoken in debate. In 1828 the rules were referred to a committee for revision, and were reported without any amendment to these rules; but when they came up for consideration in the Senate, they were amended so as to read as they now do, namely:

"'6. When a member shall be called to order by the President or a Senator, he shall sit down; and every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order.

"'7. If the member be called to order by a Senator for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter.'

"It will be seen, by comparison, that the proposed rule expressly recognized the authority in the President to call to order, and gave an appeal from his decision, which the former rules did not. It also made a distinction between a call to order by the President, and by a Senator, for words spoken, by requiring in the latter case that the objectionable words should be reduced to writing, but not in the former. On this amendment a long and interesting debate sprung up, which may be found in Gales & Seaton's Register of Debates, vol. 4, part 1, p. 278 to 341; and in this debate, though Senators differed widely as to the power of the President to call to order without the amendment, and as to the policy of adopting it, yet all seemed to concede that, if adopted, he would have such power, and the amendment was finally agreed to by a vote of more that two to one; and thereupon it is reported that Mr. Calhoun,

"'The Vice-President, then rose and said that he took this opportunity to express his entire satisfaction with that portion of the amendment giving to Senators the right of appeal from the decision of the Chair, as it was not only according to strict principle, but would relieve the Chair from a most delicate duty. *As to the power conferred upon the Chair*, it was not for him to speak, but he assured the Senate that he should always endeavor to exercise it with strict impartiality.'

"It appears to me, then, with all due respect to the opinion of others, that this rule recognized the power to call to order in the Vice-President, and by implication, at least, conferred that power upon him.

"The next question is, Does the possession of the power impose any duty to exercise it? The power, it will be seen, is conferred equally upon the Chair and every member of the Senate, and in precisely the same language. Is the duty, then, more

imperative upon the the President, than upon any and every member of the Senate to perform the unpleasant but necessary task of exercising it? There is a marked distinction between this rule and the corresponding rule of the House of Representatives. By the twenty-second rule of that body a member *may* call to order, but it is made the imperative duty of the Speaker to do so. The words are:

"'If any member, in speaking or otherwise, transgress the rules of the House, the Speaker *shall*, or any member *may*, call to order,' etc.

"It is perhaps to be regretted, if the Senate desires that its Presiding Officer should perform this delicate and ungracious duty, that its rule had not been equally explicit with that of the House. The reason why Senators so seldom interfere by calling each other to order is, doubtless, because they fear that their motives may be misunderstood. They do not like to appear as volunteers in the discharge of such an invidious duty. The same feelings must, to some extent, operate upon the Chair, unless his duty be palpable. But, upon mature reflection, I have come to the conclusion, though the authority be the same, yet that the duty may be more imperative upon the Chair than upon a Senator; and that, if the painful necessity shall hereafter arise, I shall feel bound to discharge my duty accordingly. I shall endeavor to do it with the utmost impartiality and respect. I know how difficult it is to determine what is and what is not in order, to restrain improper language, and yet not abridge the freedom of debate. But all must see how important it is that the first departure from the strict rule of parliamentary decorum should be checked, as a slight attack, or even insinuation, of a personal character, often provokes a more severe retort, which brings out a more disorderly reply, each Senator feeling a justification in the previous aggression.

"There is, therefore, no point so proper to interpose for the preservation of order as to check the first violation of it. If, in my anxiety to do this, I should sometimes make a mistake, I am happy to know that the Senate has the remedy in its own hands, and that by an appeal my error may be corrected without injury to anyone. Or if I have wholly mistaken my duty in this delicate matter, the action of the Senate will soon convince me of that fact, and in that event I shall cheerfully leave it to the disposition of the Senate. But I have an undoubting confidence that while I am right I shall be fully sustained.

"I trust I shall be pardoned for making one or two suggestions on some points of minor importance. This body has been so long and so justly distinguished for its dignity and decorum, that I can not but apprehend that some neglect on my part renders these remarks necessary. We all know that many little irregularities may be tolerated in a small body that would cause much disorder in a large one. The Senate has increased from 26 to 60 members. The natural tendency of the increase of members is to relax the discipline; so that when the strict observance of rules is most essential to the dignity and comfort of the body, it is the most difficult to enforce it.

"The second rule is a very salutary one, but perhaps too stringent to be always strictly observed in practice. It reads as follows:

"'No member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper while the journals or public papers are reading, or when any member is speaking in any debate.'

"Mr. Jefferson, in his Manual (p. 140), which seems to be a code of common law for the regulation of all parliamentary bodies in this country, says that no one is to disturb another in his speech, etc., nor to pass between the Speaker and the speaking member. These are comparatively trifling matters, and yet the rules and law of the Senate would seem to require that its Presiding Officer should see them enforced. I trust, however, that it is only necessary to call attention to them to insure their observance by every Senator.

"But a practice seems to have grown up of interrupting a Senator when speaking by addressing him directly, instead of addressing the Chair, as required by the rule.

The Manual declares that it is a breach of order for one member to interrupt another while speaking, unless by calling him to order if he departs from it. It seems to me that the case should be a very urgent one, indeed, that can justify one member in interrupting another while speaking, and that all would find it to their advantage if this rule were more strictly enforced than it has been, and that in all cases the Senator rising to explain should address the Chair, as required by the rule. As Presiding Officer of the Senate, I feel that my duty consists in executing its will, as declared by its rules and by its practice. If those rules are too strict it would be better to modify than violate them. But we have a common interest and feel a common pride in the order and dignity of this body; and I therefore feel that I can appeal with confidence to every Senator to aid me in enforcing these salutary regulations."

On motion by Mr. King,

It was unanimously

Ordered, That the remarks of the Vice-President be entered on the Journal.

WILLARD SAULSBURY.

3d sess. 37th Cong., J. of S., 158.] JANUARY 27, 1863.

While Mr. Saulsbury was speaking he was called to order by the Vice-President for indulging in language reflecting upon the character of members of the Senate, and was required to sit down.

From this decision of the Chair Mr. Saulsbury took an appeal to the Senate and was proceeding in further remarks when he was again called to order by the Chair for discussing the merits of the bill, which was not in order upon the question of appeal from the decision of the Chair on the point of order, and again required to sit down.

But Mr. Saulsbury still continuing his remarks, after he had been called to order, and required to sit down,

The Vice-President directed the Sergeant-at-Arms to take him in charge for disorderly conduct; and

Upon the question, Shall the decision of the Chair from which the appeal was taken by Mr. Saulsbury stand as the judgment of the Senate?

It was determined in the affirmative.

[Cong. Globe, 3d sess. 37th Cong., 549.]

GARRETT DAVIS.

1st sess. 38th Cong., J. of S., 165.] FEBRUARY 17, 1864.

While Mr. Davis was addressing the Chair, he was called to order by Mr. Wilson for words spoken in debate.

The Chair decided that the words spoken by Mr. Davis were a violation of the rules of the Senate, and that, being out of order, he could not proceed without the leave of the Senate; which being granted,

The Chair stated that Mr Davis might proceed in his remarks *in order*; and

Mr. Davis having concluded his remarks,

On motion by Mr. Hale, etc.

[The words referred to may be found in Cong. Globe. 1st sess. 38th Cong., 704.]

L. Q. C. LAMAR.

3d sess. 45th Cong., J. of S., 449.] MARCH 1, 1879.

On motion by Mr. Hoar to amend the amendment by adding thereto the following words: *Provided, That no pension shall ever be paid under this bill to Jefferson Davis, the late President of the so-called Confederacy,*

During the debate,

Mr. Lamar, while addressing the Senate in reply to remarks by Mr. Hoar, having used the following language:

"I must confess my surprise and regret that the Senator from Massachusetts should have wantonly, without provocation, flung this insult"——

He was called to order by the Presiding Officer (Mr. Edmunds in the chair), who decided that the words used were not in order.

From this decision Mr. Lamar appealed to the Senate; and

On the question, "Shall the decision of the Chair stand as the judgment of the Senate?"

It was determined in the negative, { Yeas ..... 15 / Nays 26

On motion by Mr. Cameron, of Wisconsin,

(The yeas and nays were ordered. The names are omitted.)

So the decision of the Chair was not sustained.

DIFFERENCES ADJUSTED.

The Journal of the Senate records two instances of differences between members arising during debate which have been adjusted by mutual explanations and retractions through the intercession of friendly members.

GEORGE POINDEXTER AND JOHN FORSYTH.

1st sess. 23d Cong., J. of S., 163.] FEBRUARY 28, 1834.

Ordered, That the following be entered on the legislative journal of the Senate:

A misunderstanding having arisen between the Hon. George Poindexter and the Hon. John Forsyth, in the course of the proceedings of the Senate this day, after the close of the business, the Senate required the attendance of its absent members;

Whereupon,

At the instance of several members, mutual, satisfactory, and honorable explanations took place.

JOHN B. GORDON AND ROSCOE CONKLING.

2d sess. 45th Cong., J. of S., 70.] DECEMBER 15, 1877.

On motion by Mr. Thurman,

The doors of the Senate were closed,

When

Mr. Hamlin submitted the following order, which was agreed to:

Whereas, a misunderstanding having arisen between the Hon. Roscoe Conkling and the Hon. John B. Gordon in the course of the executive proceedings of the Senate of yesterday, and mutual understandings having thereon been arrived at, as set out in the following paper, it is

Ordered, That said paper be entered at large on the legislative journal of the Senate.

"During an executive session of the Senate held yesterday, words were uttered both by Senator Gordon, of Georgia, and by Senator Conkling, of New York, which were mutually felt to be unkind and offensive. Reports of the incident appear in the papers of this morning, which are inaccurate and unjust to both speakers. Upon a careful inquiry as to what was said by each speaker and what was understood to be said by the other, it is certain that the first offensive words were inspired by an honest misunderstanding of what had been innocently said by the first speaker. One harsh remark provoked another, as too often happens, but all that was offensive was the outgrowth of misapprehension. Since such was the fact, we, who are mutual friends of both Senators, are of the opinion that it is due alike to the Senate and the speakers that whatever was felt to be unkind or offensive in the remarks of either should be treated as if never uttered, and, we are now authorized to state, are mutually and simultaneously withdrawn.

"H. HAMLIN,
"M. W. RANSOM,
"TIMOTHY O. HOWE,
"J. E. MCDONALD."

COMPENSATION OF SENATORS.

The compensation of Senators was fixed by the act of 1789 at $6 per day during the session, and mileage at the rate of "$6 for every 20 miles of the estimated distance by the most usual road" traveled by the Senator from his place of residence to the seat of Congress. In 1795 this became $7 per day and the mileage was increased to $7 for every 20 miles. The act of 1796 restored the former rates, and these continued in force until 1816, when the compensation was made $1,500 per annum. This was repealed in the following year, and a year later a per diem compensation of $8 was adopted. In 1856 the per diem was abandoned and a fixed sum of $3,000 for each session substituted. This was made $5,000 in 1866, and in 1873, $7,500. This last act, however, was repealed on the reassembling of Congress by the act of 1874, and the compensation again fixed at $5,000.

By the act of 1856 each Senator received on the first day of the month his compensation at the rate of $3,000 per annum, and at the end of the session the balance of the $3,000. The joint resolution of 1857 changed this so far as to allow Senators to draw at the beginning of the session the amount of their compensation—which had accrued during the recess. Ten years later, in 1867, provision was made for the payment of the compensation monthly to Senators who had taken the oath of office, and by joint resolution of 1883 this privilege was extended to those Senators whose credentials, being regular in form, had been presented in the Senate, but who had had no opportunity to qualify.

Under the act of 1856, if a Senator died before the beginning of the session, his estate received no compensation or mileage. This provision was changed by joint resolution in 1859, and thereafter the representatives of deceased members received the usual compensation from the beginning of the term until the time of their deaths.

All of these acts were retroactive, the time covered by the back-pay provisions varying from six days, in the act of 1796, to the entire term of the Congress, as in the act of 1873. Four of them, the acts of 1797, 1816, 1856, and 1866, extend back over a whole session.

The time when the compensation of Senators from newly admitted States shall begin has been a subject of discussion several times. The practice has been by no means uniform, but after a careful consideration of the precedents, in 1890, the Committee on Privileges and Elections decided that Senators from new States were entitled to compensation from the dates of admission of the States. This report was adopted by the Senate, and the Senators from the States of North Dakota, South Dakota, Montana, and Washington received compensation accordingly.

The Senators elected in 1868, by Arkansas and other States which had been unrepresented since 1861, after much discussion received compensation from March 4, 1867, the beginning of the Fortieth Congress.

STATUTORY PROVISIONS.

Stat. 1789, ch. 17; 1 Stat. 70.]

SECTION 1. *Be it enacted, &c.*, That at every session of Congress, and at every meeting of the Senate in the recess of Congress, prior to the fourth day of March, in the year one thousand seven hundred and ninety-five, each Senator shall be entitled to receive six dollars for every day he shall attend the Senate, and shall also be allowed, at the commencement and end of every such session and meeting, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress, and in case any member of the Senate shall be detained by sickness on his journey to or from any such session or meeting, or after his arrival shall be unable to attend the Senate, he shall be entitled to the same daily allowance: *Provided, always,* That no Senator shall be allowed a sum exceeding the rate of six dollars a day, from the end of one such session or meeting to the time of his taking his seat in another.

SEC. 2. *And be it further enacted*, That at every session of Congress, and at every meeting of the Senate in the recess of Congress, after the aforesaid fourth of March, in the year one thousand seven hundred and ninety-five, each Senator shall be entitled to receive seven dollars for every day he shall attend the Senate; and shall also be allowed at the commencement and at the end of every such session and meeting, seven dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress; and in case any member of the Senate shall be detained by sickness, on his journey to or from any such session or meeting, or after his arrival shall be unable to attend the Senate, he shall be entitled to the same allowance of seven dollars a day: *Provided, always*, That no Senator shall be allowed a sum exceeding the rate of seven dollars a day, from the end of one such session or meeting to the time of his taking his seat in another.

SEC. 6. *And be it further enacted*, That the said compensation which shall be due to the officers and members of the Senate shall be certified by the President; * * * and the same shall be passed as public accounts, and paid out of the public treasury.

SEC. 7. *And be it further enacted*, That this act shall continue in force until the fourth day of March, in the year one thousand seven hundred and ninety-six, and no longer.

Approved, September 22, 1789.

Stat. 1796, ch. 4; 1 Stat. 448.]

SEC. 1. *Be it enacted, &c.*, That at every session of Congress, and at every meeting of the Senate in the recess of Congress, from and after the third day of March in the present year, each Senator shall be entitled to receive six dollars for every day he shall attend the Senate; and shall also be allowed, at the commencement and end of every such session and meeting, six dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress; and in case any member of the Senate shall be detained by sickness on his journey to or from any such session or meeting, or, after his arrival, shall be unable to attend the Senate, he shall be entitled to the same daily allowance: *Provided, always*, That no Senator shall be allowed a sum exceeding the rate of six dollars a day, from the end of one such session or meeting, to the time of his taking his seat in another.

SEC. 5. [Identical with sec. 6 of the act of 1789.]

Approved, March 10, 1796.

Stat. 1797, ch. 13; 1 Stat. 533.]

Be it enacted, etc., That at the present extraordinary meeting and session of Congress, the respective members of the Senate and House of Representatives shall be entitled to receive a full allowance of mileage, any law to the contrary notwithstanding.

Approved, July 6, 1797. [The session began May 15, 1797.]

Stat. 1816, ch. 30; 3 Stat. 257.]

Be it enacted, etc., That instead of the daily compensation now allowed by law, there shall be paid annually to the Senators, Representatives, and Delegates from Territories of this and every future Congress of the United States the following sums, respectively—that is to say: To the President of the Senate *pro tempore*, when there is no Vice-President, and to the Speaker of the House of Representatives, three thousand dollars each; to each Senator, member of the House of Representatives other than the Speaker, and Delegate, the sum of fifteen hundred dollars: *Provided, nevertheless*, That in case any Senator, Representative, or Delegate shall not attend in his place at the day on which Congress shall convene, or shall absent himself before the close of the session, a deduction shall be made from the sum which would otherwise be allowed to him, in proportion to the time of his absence, saving to the cases of sickness the same provisions as are established by existing laws; and the aforesaid allowance shall be certified and paid in the same manner as the daily compensation to members of Congress has heretofore been.

Approved, March 19, 1816.

Stat. 1817, ch. 9; 3 Stat. 345]

Be it enacted, etc., That from and after the close of the present session of Congress the act entitled "An act to change the mode of compensation to the members of the Senate and House of Representatives and the Delegates from Territories," passed the nineteenth day of March, one thousand eight hundred and sixteen, shall be, and the same is hereby, repealed; *Provided always*, That nothing herein contained shall be construed to revive any act or acts, or parts of acts repealed or suspended by the act hereby repealed.

Approved, February 6, 1817.

[Stat. 1818, ch. 5; 3 Stat. 404.]

Be it enacted, etc., That at every session of Congress, and at every meeting of the Senate in the recess of Congress, after the third day of March, in the year one thousand eight hundred and seventeen, each Senator shall be entitled to receive eight dollars for every day he has attended, or shall attend the Senate, and shall also be allowed eight dollars for every twenty miles of estimated distance, by the most usual road, from his place of residence to the seat of Congress, at the commencement and end of every such session and meeting; and that all sums for travel already performed, to be due and payable at the time of passing this act. And in case any member of the Senate has been, is, or shall be unable to attend the Senate, or shall be detained by sickness on his journey to or from such session or meeting, or after his arrival, has been, is, or shall be unable to attend the Senate, he shall be entitled to the same daily allowance. And the President of the Senate *pro tempore*, when the Vice-President has been, or shall be, absent, or when his office shall be vacant, shall, during the period of his services, receive, in addition to his compensation as a member of the Senate, eight dollars for every day he has attended or shall attend the Senate: *Provided always*, That no Senator shall be allowed a sum exceeding the rate of eight dollars a day, from the end of one such session or meeting to the time of his taking his seat in another: *Provided also*, That no Senator shall receive more for going to, and returning from, the meeting of the Senate on the fourth day of March last, than if this act had not passed.

SEC. 3. [Identical with Sec. 6 of act of 1789.]

SEC. 4. *And be it further enacted*, That all acts and parts of acts on the subject of compensation to members of the Senate and of the House of Representatives and Delegates of the Territories, be, and the same are hereby, repealed from and after the third day of March last.

Approved, January 22, 1818.

Stat. 1856, ch. 123; 11 Stat. 48.]

Be it enacted, etc., That the compensation of each Senator, Representative, and Delegate in Congress shall be six thousand dollars for each Congress, and mileage as now provided by law for two sessions only, to be paid in the manner following, to *wit:* On the first day of each regular session each Senator, Representative, and Delegate shall receive his mileage for one session, and on the first day of each month thereafter during such session, compensation at the rate of three thousand dollars per annum during the continuance of such session, and at the end of such session he shall receive the residue of his salary due to him at such time at the rate aforesaid still unpaid; and at the beginning of the second regular session of the Congress each Senator, Representative, and Delegate shall receive his mileage for such second session, and monthly during such session compensation at the rate of three thousand dallars per annum till the fourth day of March terminating the Congress, and on that day each Senator, Representative, and Delegate shall be entitled to receive any balance of the six thousand dollars not theretofore paid in the said monthly installments, as above directed.

SEC. 2. *And be it further enacted*, That the President of the Senate *pro tempore*, when there shall be no Vice-President, or the Vice-President shall have become President of the United States, shall receive the compensation provided by law for the Vice-President; and the Speaker of the House of Representatives shall receive double the compensation above provided for Representatives, payable at the times and in the manner above provided for payment of compensation of Representatives.

SEC. 3. *And be it further enacted*, That this law shall apply to the present Congress, and each Senator, Representative, and Delegate shall be entitled to receive the difference only between their per diem compensation already received under the law now in force and the compensation provided by this act.

SEC. 4. *And be it further enacted*, That in the event of the death of any Senator, Representative, or Delegate prior to the commencement of the first session of the Congress he shall be entitled neither to mileage or compensation; and in the event of death after the commencement of any session his representatives shall be entitled to receive so much of his compensation, computed at the rate of three thousand dollars per annum, as he may not have received, and any mileage that may have actually accrued and be due and unpaid.

SEC. 5. *And be it further enacted*, That if any books shall hereafter be ordered to and received by members of Congress by a resolution of either or both Houses of Congress, the price paid for the same shall be deducted from the compensation hereinbefore provided for such member or members: *Provided, however*, That this shall not extend to books ordered to be printed by the Public Printer during the Congress for which the said member shall have been elected.

SEC. 6. *And be it further enacted*, That it shall be the duty of the Sergeant-at-Arms of the House and Secretary of the Senate, respectively, to deduct from the monthly

payments to members as herein provided for, the amount of his compensation for each day that such member shall be absent from the House or Senate, respectively, unless such Representative, Senator, or Delegate shall assign as the reason for such absence the sickness of himself or of some member of his family.

SEC. 7. *And be it further enacted*, That all acts and parts of acts inconsistent with or repugnant to the provisions of this act be, and the same are hereby, repealed.

Approved, August 16, 1856.

[See report on the construction of this act, p. 131, *infra*.]

Joint resolution, 1857, 11 Stat. 367.]

Resolved by the Senate and House of Representatives, etc., That the compensation allowed to members of Congress by an act entitled "An act to regulate the compensation of members of Congress," approved August sixteenth, eighteen hundred and fifty-six, be paid in the following manner, to wit: On the first day of the first session of each Congress, or as soon thereafter as he may be in attendance and apply, each Senator, Representative, and Delegate shall receive his mileage as now provided by law, and all his compensation from the beginning of his term, to be computed at the rate of two hundred and fifty dollars per month, and during the session compensation at the same rate. And on the first day of the second or any subsequent session, he shall receive his mileage as now allowed by law, and all compensation which has accrued during the adjournment, at the rate aforesaid, and during said session compensation at the same rate.

SEC. 2. *And be it further resolved*, That so much of said act approved August sixteenth, eighteen hundred and fifty-six, as conflicts with this joint resolution, and postpones the payment of said compensation until the close of each session, be, and the same is hereby, repealed.

Approved, December 23, 1857.

Joint resolution, 1859, 11 Stat. 442.]

Resolved by the Senate and House of Representatives, etc., That whenever, hereafter, any person elected a member of the Senate or House of Representatives shall die after the commencement of the Congress to which he shall have been elected, compensation shall be computed and paid to his widow, or if no widow survive him to his heirs at law, for the period that shall have elapsed from the commencement of such Congress as aforesaid, to the time of his death, at the rate of three thousand dollars per annum: *Provided, however*, That compensation shall be computed and paid in all cases for a period of not less than three months; *and provided further*, That in no case shall constructive mileage be computed or paid.

SEC. 2. *Be it further resolved*, That the compensation of each person elected or appointed to supply the vacancy so occasioned, shall hereafter be computed and paid from the time the compensation of his predecessor is hereby directed to be computed and paid for, and not otherwise.

[Sec. 3 extends the provisions of this resolution to the widows and heirs at law of members elect to the Congress passing it.]

Approved, March 3, 1859.

Joint resolution, 1862, 12 Stat. 624.

Resolved by the Senate and House of Representatives, etc., That all cases of a vacancy in either House of Congress, by death or otherwise, of any member elected or appointed thereto, after the commencement of the Congress to which he shall have been elected, each person afterwards elected or appointed to fill such vacancy shall be compensated and paid from the time that the compensation of his predecessor ceased: *Provided*, That no member shall receive for his compensation more than three thousand dollars for any one year.

Approved, July 12, 1862.

Stat. 1866, ch. 296; 14 Stat. 323.]

SEC. 17. *And be it further enacted*, That the compensation of each Senator, Representative, and Delegate in Congress shall be five thousand dollars per annum, to be computed from the first day of the present Congress, and in addition thereto mileage at the rate of twenty cents per mile, to be estimated by the nearest route usually travelled in going to and returning from each regular session; but nothing herein contained shall affect mileage accounts already accrued under existing laws.

Provided, That hereafter mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker

of the House of Representatives: *And provided further,* That the pay of the Speaker shall be eight thousand dollars per annum.

Approved, July 28, 1866.

Joint resolution, 1867, 15 Stat., 24.]

Resolved by the Senate and House of Representatives, etc., That each Senator, Member of the House of Representatives, and Delegate in Congress, after having taken and subscribed the required oath, shall be entitled to receive his compensation at the end of each month, at the rate now established by law, and an amount sufficient to pay their compensation and mileage to the first day of July next is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Approved, March 29, 1867.

Stat. 1873, ch. 226; 17 Stat., 486.]

Senate. * * * and the Speaker of the House of Representatives shall, after the present Congress, receive in full for all his services, compensation at the rate of ten thousand dollars per annum, and Senators, Representatives, and Delegates in Congress, including Senators, Representatives, and Delegates in the Forty-second Congress holding such office at the passage of this act, and whose claim to a seat has not been adversely decided, shall receive seven thousand five hundred dollars per annum each, and this shall be in lieu of all pay and allowance, except actual individual travelling expenses from their homes to the seat of Government and return, by the most direct route of usual travel, once for each session of the House to which such Senator, Member, or Delegate belongs, to be certified to under his hand to the disbursing officer and filed as a voucher: *Provided,* That in settling the pay and allowance of Senators, Members, and Delegates in the Forty-second Congress, all mileage shall be deducted and no allowance made for expenses of travel.

Approved, March 3, 1873.

Stat. 1874, ch. 11; 18 Stat., 4.]

Be it enacted, etc., That so much of the act of March third, eighteen hundred and seventy-three, entitled "An act making appropriations for legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy-four," as provides for the increase of the compensation of public officers and employés, whether Members of Congress, Delegates, or others, except the President of the United States and the justices of the Supreme Court, be, and the same is hereby repealed, and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be as fixed by the laws in force at the time of the passage of said act: *Provided,* That mileage shall not be allowed for the first session of the Forty-third Congress; that all moneys appropriated as compensation to the members of the Forty-second Congress, in excess of the mileage and allowances fixed by law at the commencement of said Congress, and which shall not have been drawn by the members of said Congress, respectively, or which having been drawn, have been returned in any form to the United States, are hereby covered into the Treasury of the United States, and are declared to be the moneys of the United States absolutely, the same as if they had never been appropriated as aforesaid.

Approved, January 20, 1874.

Stat. 1883, ch. 143; 22 Stat., 632.]

That Senators elected whose term of office begins on the fourth day of March and whose credentials in due form of law shall have been presented in the Senate, but who have had no opportunity to be qualified, may receive their compensation monthly, from the beginning of their term, until there shall be a session of the Senate.

Approved, March 3, 1883.

PROCEEDINGS IN THE SENATE.

1 J. of S., 90.] SEPTEMBER 26, 1789.

Ordered, That Messrs. Wingate, Dalton, and Henry be the committee to ascertain the attendance and traveling expenses of the members of the Senate.

1 J. of S., 127.] APRIL 3, 1790.

Mr. Ellsworth, on behalf of the committee appointed the 1st of April to state the compensation due to the members of the Senate for the present session, reported:

That there is due to the Senators of the United States for attendance in Congress

the present session, to the 31st day of March, inclusive, and expenses of travel to Congress, as allowed by law, as follows, to wit:

Mr. Bassett	$496.50	Mr. Johnston	$534.00
Mr. Butler	796.00	Mr. King	522.00
Mr. Carroll	186.00	Mr. Langdon	618.00
Mr. Dalton	612.00	Mr. Maclay	585.00
Mr. Ellsworth	546.50	Mr. Morris	430.50
Mr. Elmer	414.00	Mr. Paterson	514.50
Mr. Few	833.50	Mr. Read	195.00
Mr. Henry	596.50	Mr. Strong	575.50
Mr. Hawkins 615		Mr. Schuyler	571.50
Deduct certificate given 147		Mr. Wingate	616.50
	468.00		
Mr. Johnson	544.00		10,655.50

Which report being accepted the Vice-President executed the following certificate:

IN THE SENATE OF THE UNITED STATES,
New York, the 3d day of April, 1790.

I certify that the sums affixed to the names of the Senators are due to them, respectively, according to law.

JOHN ADAMS,
Vice-President.

BEGINNING OF THE TERM.

1 J. of S., 140.] MAY 14, 1790.

The Senate proceeded to consider the report of the joint committee appointed the 28th of April, which is as follows:

The committee of the Senate, to join with a committee appointed by the House of Representatives, to consider and report their opinion on the question, when, according to the Constitution, the terms for which the President, Vice-President, Senators, and Representatives, have been respectively chosen, shall be deemed to have commenced; and also, to consider of, and report their opinion on such other matters as they should conceive to have relation to this question, report, as the opinion of such joint committee:

That the terms for which the President, Vice-President, Senators, and Representatives of the United States were respectively chosen, did, according to the Constitution, commence on the 4th day of March, 1789; and so the Senators of the first class, and the Representatives will not, according to the Constitution, be entitled by virtue of the same election, by which they hold seats in the present Congress, to seats in the next Congress, which will be assembled after the 3d day of March, 1791; and further, that whenever a vacancy shall happen in the Senate or House of Representatives, and an election to fill such vacancy, the person elected will not, according to the Constitution, be entitled, by virtue of such election, to hold a seat beyond the time for which the Senator or Representative in whose stead such person shall have been elected, would, if the vacancy had not happened, have been entitled to hold a seat.

That it will be advisable for the Congress to pass a law or laws for determining, agreeable to the first section of the second article of the Constitution, the time when the electors shall, in the year which will terminate on the third day of March, 1793, and so in every fourth year thereafter, be chosen, and the day on which they shall give their votes; for declaring what officer shall, in case of vacancy, both in the office of President and Vice-President, act as President; for assigning a public office where the lists, mentioned in the second paragraph of the first section of the second article of the Constitution, shall, in case of vacancy in the office of President of the Senate, or his absence from the seat of Government, be, in the meantime, deposited; and for directing the mode in which such lists shall be transmitted; whereupon,

Resolved, That the Senate do agree to this report.

Ordered, That a message be sent to the House of Representatives to acquaint them therewith.

ABSENCE.

2d sess. 26th Cong., J. of S., 214.] FEBRUARY 27, 1841.

Resolved, That the Secretary of the Senate be instructed to allow the pay of all such members of the Senate as may have been unavoidably detained on their way to the seat of Government at the commencement of this session by the storm which

occurred about that time, they having left their respective places of abode a sufficient time to have reached the capital in time to have taken their seats on the first day of the session.

2d sess. 27th Cong., J. of H., 1413.] AUGUST 25, 1842.

And be it further resolved, That from and after the present session of Congress every member of the Senate shall, at the close of every session of Congress, or before receiving the balance due to him for mileage and attendance during the session, each Senator shall deliver to the Sergeant-at-Arms of the Senate an account stated or certificate signed by himself of the number of days of his actual attendance in the Senate during the session, and the number of days on which he was detained from the Senate by sickness, to which, on closing his account, shall be added, and for which he shall be allowed, the number of Sundays and other days on which the Senate shall not have been in session; and no Senator shall receive compensation for any day of voluntary absence from the service of the Senate when in session.

[Referred in the Senate to the Committee on the Judiciary, August 29, 1842. J. of S., 633.]

1st sess. 33d Cong., J. of S., 630.] AUGUST 2, 1854.

Mr. Gwin submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate pay, under the direction of the President of the Senate, the usual per diem to such Senators as did not take their seats at the opening of the session by reason of sickness of themselves or families, providential causes, or necessary business.

[This same resolution was adopted at the next session. 2d sess. 33d Cong., J. of S., 229, 353.]

BEGINNING OF COMPENSATION.

3d sess. 34th Cong., S. Rep., No. 438.]

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1857—Submitted, agreed to, and ordered to be printed.

Mr. TOOMBS made the following report:

The Committee on the Judiciary, to whom was referred the following statement, submitted to the Senate by the President *pro tempore*, report:

The President of the Senate *pro tempore* states to the Senate that questions have arisen before him on the construction of the act "to regulate the compensation of members of Congress," approved 16th August, 1856, which affect the compensation of certain Senators who have been chosen since the commencement of the first and of the present session of Congress, respectively, as to the time when the compensation of each should commence, and of the mileage properly to be allowed, which the President *pro tempore* desires should be submitted to the Senate.

The first section of the compensation act of the 16th August, 1856, provides "that the compensation of each Senator, Representative, and Delegate in Congress shall be six thousand dollars for each Congress, and mileage, as now provided by law, for two sessions only, to be paid in manner following, to wit: On the first day of each regular session each Senator, Representative, and Delegate shall receive his mileage for one session; and on the first day of each month thereafter, during such session, compensation at the rate of three thousand dollars per annum during the continuance of such session; and at the end of such session he shall receive the residue of his salary due to him at such time, at the rate aforesaid, still unpaid; and at the beginning of the second regular session of the Congress, each Senator, Representative, and Delegate shall receive his mileage for such second session, and monthly, during such session, compensation at the rate of three thousand dollars per annum, till the fourth day of March, terminating the Congress, and on that day each Senator, Representative, and Delegate shall be entitled to receive any balance of the six thousand dollars not theretofore paid in the said monthly instalments, as above directed."

The fourth section of the act provides "that in the event of the death of any Senator, Representative, or Delegate prior to the commencement of the first session of the Congress he shall be neither entitled to mileage or compensation; and in the event of death after the commencement of any session his representatives shall be entitled to receive so much of his compensation, computed at the rate of three thousand dollars per annum, as he may not have received, and any mileage that may have actually accrued and be due and unpaid."

The act with reasonable certainty provides for all members of either House who were legally entitled to sit at the commencement of the first regular session of each Congress, and does not very clearly provide for any others; and it is by no means clear that any others are fully within its benefits. But, assuming that the act intended to embrace the whole subject, your committee proceeded to try the rights of the cases submitted to them by this test: though the act declares that the salary of each member of Congress shall be $6,000 for each Congress, it provides that it shall be paid in a particular manner, only during or at the end of each session of Congress, except in the case of the death of a sitting member after a session has begun, and at the rate of $3,000 per annum. Therefore, he who serves the whole of each session of Congress is entitled to the whole $6,000; he who is legally entitled to serve during the whole of each session, and is prevented by the sickness of himself or family from doing so, is also entitled to the whole $6,000, and none others. But these two classes are entitled to the whole compensation under this act. None of the cases submitted to us come within either of these classes, and are, therefore, excluded. In case of the death of a member after the beginning of the first session, his personal representative is entitled to receive all the compensation (not received by him) which has accrued at the time of death, computed at the rate of $3,000 per annum, and his successor could in no event be entitled to more than the residue of the $6,000 not paid to the deceased member or his personal representative. None of the cases submitted belong to this class, but it furnishes a rule of construction which your committee believe will truly discover the intent of the act. There is nothing in the act itself which would warrant the application of a different rule of compensation to a member who fills a vacancy happening in any other manner different from one happening on the death of a sitting member after the commencement of a session; nor are we able outside of the act to discover any sound reason for such different construction. Though the mode of payment is by annual salary, the consideration therefor, in the contemplation of the act, was performance of the duties of a member of Congress when in actual session, and the times of payment seems to have been fixed during or at the end of each session, with special reference to securing this consideration. It is true that the act is not well guarded, as it may happen that a member of Congress who may never serve a single day, if legally entitled to sit during the whole Congress, may receive the whole $6,000, lessened only by a deduction of his daily pay for each day he may absent himself from the sittings of the House of which he is a member. This is an evil, but one that the act itself does not remedy; but a person who has no right by law to perform the duties of a member of Congress during any of its sessions from any given year is not entitled by this act to any compensation for that year. He not only does not perform the condition, but is legally incompetent to do so. Testing the cases submitted to us by those principles, we find the rule of compensation, in all cases of election after the first day of the first regular session, to be, that the compensation does not commence until after election, and from thence to the end of the term, at the rate of $3,000 per annum. This rule, in the opinion of your committee, applies to the cases of Messrs. Nourse, Gwin, Green, and Fitch. The case of Mr. Bigler is somewhat different. He was elected after the time fixed by law for the commencement of the first regular session of this Congress, but before the organization of the two Houses, and was in his seat the day the Congress entered upon its legislative duties; therefore, if not within the strict letter of the law, he is certainly within its equity, and your committee therefore recommend that he be paid for the whole Congress, deducting all the days he was absent, except for the time excused by the law.

We also consider that the question of mileage is settled by the same rule of construction, and that no person but a member of Congress at the time the journey ought to be performed, can, by any possibility, receive the mileage provided by the law.

SENATORS FROM MINNESOTA.

Minnesota was admitted as a State May 11, 1858, and the first Senators from that State appeared and took their seats May 12, 1858. June 3, the Committee on the Judiciary reported that their compensation should begin on the date of the admission of the State. In 1862 the question was again raised and the Committee on the Judiciary reported that the Senators from Minnesota were entitled to compensation from the beginning of the sesson in which the State was admitted. A joint resolution to this effect passed the Senate but failed in the House, whereupon the Senate paid the compensation from the beginning of the session from its contingent fund.

1st sess. 35th Cong., J. of S., 516.] MAY 25, 1858.

The Vice-President laid before the Senate a letter of the Secretary of the Senate, asking the direction of the Vice-President as to the time at which the compensation of the Senators from Minnesota is to commence.

Ordered, That it be referred to the Committee on the Judiciary.

Ib., 592.] JUNE 3, 1858.

Mr. Bayard, from the Committee on the Judiciary, to whom was referred the letter of the Secretary of the Senate in relation to the compensation of the Senators from Minnesota, reported that there is no express provision in the act regulating the compensation of members of Congress applicable to the particular case presented, but, in the opinion of the committee, a correct construction of the act of August 16, 1856, forbids the allowance of compensation until the State of Minnesota was admitted into the Union, and that the compensation of the Senators from that State should commence on the day of admission, May 11, 1858.

[No action was taken.]

2d sess. 37th Cong., J. of S., 121.] JANUARY 17, 1862.

Mr. Trumbull asked, and by unanimous consent obtained leave to bring in a joint resolution (S. 33) in relation to the pay of the first Senators and Representatives in Congress from the State of Minnesota, which was read a first and second time, by unanimous consent, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

[February 3, 1862, that committee was discharged from the further consideration of the resolution and it was referred to the Committee on the Judiciary (J. of S., 167). April 23, 1862, it was reported with an amendment and passed (ib., 418, 419).]

Resolved, etc., That the Senators and Representatives elected to Congress from the State of Minnesota under the enabling act of 26 February, 1857, be, and they are hereby, entitled to compensation as such from the commencement of the session at which the State was admitted into the Union, and the money required for that purpose be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

[The resolution did not pass the House.]

2d sess. 37th Cong., J. of S., 529.] MAY 27, 1862.

Mr. Wilkinson submitted the following resolution, which was considered, by unanimous consent, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Resolved, That there be paid out of the contingent fund of the Senate, to the Senators first elected by the State of Minnesota, compensation as such from the commencement of the session at which they were admitted to their seats.

[Reported without amendment June 3, 1862 (ib., 558). Passed July 11 (ib., 797). The the Senators from Minnesota took their seats May 12, 1858, (1st sess. 35th Cong., J. of S., 441 and the session ended June 16, 1858.]

SENATORS FROM ARKANSAS AND OTHER STATES.

2d sess. 40th Cong., J. of S., 767.] JULY 25, 1868.

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Arkansas the compensation allowed by law from the 22d day of June, 1868; and to the Senators from Florida, North Carolina, South Carolina, and Louisiana from the 25th day of June, 1868.

1st sess. 41st Cong., J. of S., 128.] APRIL 6, 1869.

Mr. Morton submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate be directed to pay the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana the compensation allowed by law, to be computed from the commencement of the second session of the Fortieth Congress.

Ib., 164.] APRIL 10, 1869.

On motion by Mr. Morton, that the Senate proceed to the consideration of the resolution submitted by him on the 6th instant, directing the Secretary to pay the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana compensation from the commencement of the second session of the Fortieth Congress,

It was determined in the affirmative, { Yeas ..... 38 / Nays 15

[The names are omitted.]

So the motion was agreed to, and

The said resolution was read the second time and considered as in Committee of the Whole; and,

Pending debate thereon,
The following message was received from the President of the United States, etc.

* * * * * * *

The Senate resumed, etc.,
[Pending debate on the resolution, the Senate adjourned without day.]
[Cong. Globe, 1st sess. 41st Cong. 718.]

2d sess. 41st Cong., J. of S., 10.] DECEMBER 6, 1869.

The Vice-President called up the unfinished business before the Senate at its adjournment last session; which was the resolution fixing the time at which the compensation of the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana shall be allowed; and
The Senate resumed, as in Committee of the Whole, the consideration of the said resolution.
On motion by Mr. Trumbull,
The Senate took a recess for thirty minutes.

Ib., 22.] DECEMBER 6, 1869.

The Senate resumed, etc.

Ib., 25.] DECEMBER 7, 1869.

The Senate resumed, etc.

Ib., 357.] MARCH 11, 1870.

The Senate resumed, as in Committee of the Whole, the resolution fixing the time at which the compensation of the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana shall commence; and,
On motion by Mr. Edmunds,
Ordered, That it lie on the table.

1st sess. 51st Cong., J. of S., 135.] FEBRUARY 12, 1891.

Mr. Chandler submitted the following resolution; which was referred to the Committee on Privileges and Elections:
Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to the Hon. George E. Spencer, late a Senator from Alabama, the amount due him from the beginning of his term, on the 4th of March, 1867, until he is paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

Ib., 181.] FEBRUARY 27, 1891.

Mr. Teller, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Chandler on the 12th instant relating to the pay of Hon. George E. Spencer, late a Senator from the State of Alabama, reported it without amendment.
[Cong. Rec., 1st sess. 51st Cong., 3409–3419.]

Ib., 188.] FEBRUARY 28, 1891.

On motion by Mr. Teller,
The Senate proceeded to consider the resolution submitted by Mr. Chandler on the 12th instant relating to the pay of Hon. George E. Spencer, late a Senator from the State of Alabama; and
Resolved, That the Senate agree thereto.

1st sess. 51st Cong., J. of S., 135.] FEBRUARY 12, 1891.

On motion by Mr. Berry,
The Senate proceeded to consider the resolution yesterday reported by Mr. Teller, from the Committee on Privileges and Elections, to pay the Hon. B. F. Rice a salary as Senator in the Fortieth Congress; and
The resolution was agreed to as follows:
Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to the Hon. B. F. Rice, late a Senator from Arkansas, the amount due him as Senator in the Fortieth Congress from the 4th of March, 1867, till he is paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

2d sess. 51st Cong., J. of S., 173.] FEBRUARY 24, 1891.

Mr. Hampton submitted the following resolution; which was referred to the Committee on Privileges and Elections:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Hon. F. A. Sawyer, late a Senator from South Carolina, the amount due him as a Senator in the Fortieth Congress, from the 4th March, 1867, till he is paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

Ib., 181.] FEBRUARY 27. 1891.

Mr. Teller, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Hampton on the 24th instant relating to the pay of Hon. F. A. Sawyer, lately Senator from the State of South Carolina in the Fortieth Congress, reported it without amendment.

The Senate proceeded, by unanimous consent, to consider the said resolution and

Resolved, That the Senate agree thereto.

Ib., 177.] FEBRUARY 26, 1891.

Mr. Plumb submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Hon. Alexander McDonald, late a Senator from Arkansas, the amount due him as a Senator in the Fortieth Congress from the 4th of March, 1867, till he is paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

Ib., 215.] MARCH 3, 1891.

[Reported favorably, considered by unanimous consent, and agreed to.]

Mr. Gorman entered a motion to reconsider the vote agreeing to the said resolution.

Ib.,231.] MARCH 3, 1891.

Mr. Gorman, with the consent of the Senate, withdrew the motion submitted by him that the Senate reconsider its vote agreeing to the resolution to pay Hon. Alexander McDonald as Senator from the State of Arkansas from March 4, 1867, to the date his pay began.

2d sess. 51st Cong., J. of S., 187.] FEBRUARY 28, 1892.

Mr. Blair submitted the following resolution; which was referred to the Committee on Privileges and Elections:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to the widow of Hon. J. C. Abbott and to the heirs of Hon. John Pool, late Senators from North Carolina, the amount due them as Senators in the Fortieth Congress from the 4th of March, 1867, until they are paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

2d Sess. 51st Cong., J. of S., 201.] MARCH 2, 1891.

Mr. Sherman submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay to Hon. Willard Warner, late Senator from Alabama, the amount due him from the beginning of his term on the 4th of March, 1867, until he is paid, said payment to be made from the miscellaneous items of the contingent fund of the Senate.

[Reported without amendment March 3, 1891 (J. of S., 215). No further action was taken.]

NOTE.—Arkansas, A. McDonald and B. F. Rice, qualified June 23, 1868; Florida, T. W. Osborn, qualified June 30, 1868; A. S. Welch, qualified July 2, 1868; North Carolina, J. Pool and J. C. Abbott, qualified July 17, 1868; South Carolina, T. J. Robertson and F. A. Sawyer, qualified July 22, 1868; Louisiana, W. P. Kellogg and J. S. Harris, qualified July 17, 1868; Virginia, J. F. Lewis, qualified January 27, 1870; J. W. Johnston, qualified January 28, 1870.

SENATORS FROM VIRGINIA.

2d sess. 41st Cong., J. of S., 169.] FEBRUARY 1, 1870.

The Vice-President laid before the Senate a letter of the Secretary of the Senate, communicating a letter from the Hon. J. W. Johnston and Hon. J. F. Lewis, Senators from the State of Virginia, in relation to the date from which their compensation as Senators should commence; which was referred to the Committee on the Judiciary.

Ib., 243.] FEBRUARY 14, 1870.

Mr. Trumbull, from the Committee on the Judiciary, to whom was referred a letter of the Secretary of the Senate in relation to the date from which the compensation of the Senators from the State of Virginia shall commence, submitted a report (No. 36) thereon, accompanied by the following resolution:

Resolved, That the Secretary be directed to pay the Senators from the State of Virginia the compensation allowed by law from the 26th day of January, 1870, the date of the act declaring said State entitled to representation in the Congress of the United States.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

The resolution was agreed to.

2d sess. 41st Cong., S. Rep., 36.]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 14, 1870.—Agreed to and ordered to be printed.

Mr. Trumbull, from the Committee on the Judiciary, submitted the following report:

The Committee on the Judiciary, to whom was referred the letter of the Secretary as to the date when the compensation of the Hon. J. W. Johnston and Hon. J. F. Lewis, Senators from the State of Virginia, should commence, beg leave to report:

That they regard the principle of the question submitted by the Secretary as settled by the Senate on the 25th of July, 1868, by the adoption of a resolution directing the Secretary to pay the Senators from the State of Arkansas from the 22d day of June, 1868; and the Senators from Florida, North Carolina, South Carolina, and Louisiana from the 25th of June, 1868, being the dates when said States were by law respectively declared entitled to representation in Congress. They therefore recommend for adoption the following resolution:

Resolved, That the Secretary be directed to pay the Senators from the State of Virginia the compensation allowed by law from the 26th day of January, 1870, the date of the act declaring said State entitled to representation in the Congress of the United States.

1st sess. 51st Cong., J. of S., 126.] FEBRUARY 18, 1890.

Mr. Barbour submitted the following resolution, which was referred to the Committee on Claims:

Be it resolved by the Senate, That the Secretary of the Senate pay to George Benjamin Johnston, administrator of the estate of Hon. John W. Johnston, deceased, the sum of $2,997 for salary due and expenses as a Senator from Virginia in the Forty-first Congress.

[February 27, 1890, the committee were discharged and the resolution was referred to the Committee on Privileges and Elections. (J. of S., p. 143.)]

Ib., 421.] JULY 10, 1890.

Mr. TELLER, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Barbour February 18, 1890, for the relief of the estate of John W. Johnston, deceased, reported it with the following amendment, and submitted a report (No. 1481) thereon:

Be it resolved by the Senate, That the Secretary of the Senate be authorized to pay George Benjamin Johnston, administrator of the estate of John W. Johnston, and John F. Lewis, each the sum of $4,439 out of the contingent fund of the Senate.

Ordered, That it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

1st sess. 51st Cong., S. Rept. No. 1481.]

IN THE SENATE OF THE UNITED STATES.

JULY 10, 1890.—Ordered to be printed.

Mr. Teller, from the Committee on Privileges and Elections, submitted the following report:

[To accompany Senate resolution in the claim of George Benj. Johnston, administrator of the estate of the Hon. John W. Johnston, ex-United States Senator, and the Hon. John F. Lewis, ex-United States Senator.]

Your committee finds that the Senators and Representatives from Virginia were seated in the Senate and the House on the 27th of January, 1870, and that the Representatives were paid from the 4th of March, 1869, and that the Senators were paid from the 27th of January, 1870. This was manifestly unjust.

The Hons. D. S. Patterson and John S. Fowler, United States Senators of Tennessee, were seated July 27, 1866, and were paid from the 4th of March, 1865. (See official letters of Secretary Windom of late date, certifying to these facts, on file with the committee.)

The Representative from Tennessee, Hon. W. B. Stokes, and others, were seated July 28, 1866, and paid from March 4, 1865, on a report of the Hon. Henry L. Dawes, now Senator Dawes. Sergeant-at-Arms asked for instructions as to when their pay should commence. The House decided without discussion that their pay should begin with the term. The Hon. Mr. Stevens and the Hon. Mr. Dawes said there could be doubt of the fact that members' pay should commence with the term.

Your committee find many precedents both in the Senate and House sustaining this fact.

We recommend the passage of the accompanying resolution as a substitute for Senate resolution.

Ib., 429.] JULY 16, 1890.

Mr. Jones, of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. Barbour February 18, 1890, for the relief of the estate of John W. Johnston; and the amendment reported by the Committee on Privileges and Elections on the 10th instant, reported in lieu thereof the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay George Benjamin Johnston, administrator of the estate of John W. Johnston, late a Senator from the State of Virginia, and to John F. Lewis, late a Senator from the State of Virginia, the sum of $4,439, respectively, their salary as such Senators from the 4th day of March, 1869, to the 26th day of January, 1870, the said payments to be made from the miscellaneous items of the contingent fund of the Senate.

SENATORS FROM MISSISSIPPI AND TEXAS.

2d sess. 41st Cong., J. of S., 444.] APRIL 1, 1870.

Mr. Drake submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Mississippi the compensation allowed by law from the 23d day of February, 1870, and the Senators from the State of Texas from the 30th day of March, 1870, the dates of the acts declaring said States, respectively, entitled to representation in the Congress of the United States.

GEORGE VICKERS.

Hon. Philip F. Thomas was elected a Senator from the State of Maryland for the term beginning March 4, 1867, but was not admitted and received no compensation. March 7, 1868, Hon. George Vickers was elected to fill the vacancy. Mr. Vickers asked the opinion of the Senate whether he was not entitled to compensation from March 4, 1867, to March 4, 1868. The question was referred to the Committee on the Judiciary, which reported in Mr. Vickers' favor, and the Senate accordingly voted that he was entitled to receive compensation from March 4, 1868.

2d sess. 42d Cong., J. of S., 1005.] JUNE 8, 1872.

The President *pro tempore* presented a communication from the Hon. George Vickers relative to his compensation as a Senator from the State of Maryland from March 4, 1867, to March 7, 1868; which was referred to the Committee on Privileges and Elections.

Ib., 1008.] JUNE 8, 1872.

Mr. Thurman, from the Committee on Privileges and Elections, to whom was referred a communication from the Hon. George Vickers in relation to his pay as a Senator from the State of Maryland, submitted a report (No. 231), accompanied by the following resolution:

Resolved, That George Vickers, a Senator from Maryland, is entitled to receive pay as such for the year commencing March 4, 1867.

Which was read the first and second times, by unanimous consent, and considered as in Committee of the Whole; and, no amendment being made, it was reported to the Senate.

Ordered, That the resolution be engrossed and read a third time.

The said resolution was read a third time by unanimous consent; and

On the question, Shall the resolution pass?

After debate,

It was determined in the affirmative, { Yeas..... 43 / Nays..... 4

[The names are omitted.]

So it was

Resolved, That the resolution pass.

2d sess. 42d Cong., S. Rept., 231.]

IN THE SENATE OF THE UNITED STATES.

JUNE 8, 1872.—Ordered to be printed.

Mr. Thurman, from the Committee on Privileges and Elections, submitted the following report:

The Committee on Privileges and Elections, to whom was referred a communication of Hon. George Vickers, a Senator from Maryland, to the President of the Senate, to wit:

JUNE 8, 1872.

The Hon. Philip Francis Thomas was elected to the Senate of the United States by the legislature of Maryland for six years, commencing on the 4th of March, 1867, and ending on the 4th of March, 1873.

Mr. Thomas was not admitted to his seat and did not receive any compensation from the United States.

On the 7th of March, 1868, George Vickers was elected to the Senate for the balance of the term, ending March 4, 1873.

Under the late decision made in the case of the Hon. Mr. Ransom, of North Carolina, am I not entitled to compensation from March 4, 1867, to March 4, 1868?

GEORGE VICKERS.

Hon. HENRY B. ANTHONY,
President pro tem. of the Senate.

Report that, according to the practice of each House of Congress since the passage of the act of July 12, 1862, Mr. Vickers was entitled to pay commencing March 4, 1867. His case differs in no essential particular from that of Mr. Ransom, Senator from North Carolina, in which this construction of the act was approved by the Senate at the present session. But Mr. Vickers did not draw his pay for the year commencing March 4, 1867, to which he was entitled.

Your committee report the following resolution and recommend its adoption:

Resolved, That George Vickers, a Senator from Maryland, is entitled to receive pay as such for the year commencing March 4, 1867.

A. G. THURMAN.
B. F. RICE.
M. H. CARPENTER.
JOSHUA HILL.
H. B. ANTHONY.

SENATORS FROM TENNESSEE.

2d sess. 39th Cong., J. of S., 201.] FEBRUARY 4, 1867.

Mr. Harris, from the Committee on the Judiciary, to whom was referred the letter of the Secretary of the Senate in relation to the payment of the Senators admitted from the State of Tennessee at the last session of Congress, reported the following resolution:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Tennessee the compensation allowed by law, to be computed from the commencement of the Thirty-ninth Congress.

Ib., 443.] MARCH 2, 1867.

On motion by Mr. Harris,

The Senate proceeded to consider the resolution reported by the Committee on the Judiciary in relation to the compensation of the Senators from the State of Tennessee; and

On motion by Mr. Sumner to amend the resolution by striking out the words "commencement of the Thirty-ninth Congress," and inserting in lieu thereof the words *date of the resolution of Congress recognizing Tennessee* as entitled to representation,

It was determined in the negative; and

On the question to agree to the resolution,

It was determined in the affirmative.

So it was

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Tennessee the compensation allowed by law, to be computed from the commencement of the Thirty-ninth Congress.

1st sess. 43d Cong., J. of S., 63.] DECEMBER 11, 1873.

Mr. Davis submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to furnish the Senate all the information in his office relating to the fixing the salaries of Senators and Representatives in Congress from the formation of the Government; in what cases provisions for salaries were made retroactive; how long a time in each case was covered by retroactive provisions; the names of Senators who drew their pay under such provisions; the amounts drawn by them respectively, with the dates of payment; the names of Senators who covered into the Treasury amounts due them under the retroactive provisions, and the date of such action; also a comparative statement of the total compensation and allowance of Senators under the acts of July 28, 1856, and of March 3, 1873, respectively.

On motion by Mr. Davis,

The Senate proceeded to consider the resolution submitted by him the 11th instant calling upon the Secretary of the Senate for all information in his office relative to the fixing of the salaries of Senators and Representatives in Congress; and

Resolved, That the Senate agree thereto.

Ib., 96.] JANUARY 5, 1874.

The president *pro tempore* presented a report of the Secretary of the Senate communicating, in compliance with the resolution of the Senate of December 17, 1873, information in relation to the salaries of Senators and Representatives in Congress.

Ordered, That it lie on the table and be printed.

1st sess. 43d Cong., S. Mis. Doc. No. 22.]

OFFICE OF THE SECRETARY OF THE SENATE,
Washington, D. C., January 5, 1874.

Hon. MATT H. CARPENTER,
President of the Senate pro tempore:

SIR: In compliance with the resolution of the Senate of the 17th ultimo, calling for information concerning the salary of Senators and Representatives in Congress, I have the honor to furnish the following:

I. The several rates of compensation fixed by various laws and the cases in which the same were retroactive, and for what length of time.

(1) By the act of September 22, 1789, the compensation of Senators and Representatives was fixed at $6 a day and 30 cents a mile for traveling to and from the seat of government. This rate was to continue until March 4, 1795. The same act

fixed the compensation from March 4, 1795, to March 4, 1796 [at which date, by its terms, it expired], at $7, and 35 cents a mile for travel. This act was retroactive, extending back six months and eighteen days, viz, to March 4, 1789.

(2) The act of March 10, 1796, fixed the compensation at $6 a day and 30 cents a mile for travel [this act extended back for six days only].

(3) The act of March 19, 1816, fixed the compensation at $1,500 a year "instead of the daily compensation," and left the mileage unchanged.

This act was retroactive, extending back one year and fifteen days, viz, to March 4, 1815.

[This act was repealed by act of February 6, 1817, but it was expressly declared that no former act was thereby revived.]

(4) The act of January 2, 1818, fixed the compensation at $8 a day and 40 cents a mile for travel.

This act was retroactive, extending back fifty-three days, viz, to the assembling of Congress, December 1, 1817.

(5) The act of August 16, 1856, fixed the compensation at $3,000 a year and left the mileage unchanged.

This act was retroactive, extending back one year four months and twenty-four days, viz, to March 4, 1855.

(6) The act of July 28, 1866, fixed the compensation at $5,000 a year and 20 cents a mile for travel (not to affect mileage accounts already accrued).

This act was retroactive, extending back one year, four months, and twenty-four days, viz, to March 4, 1865.

(7) The act of March 3, 1873, fixed the compensation at $7,500 a year and actual traveling expenses, the mileage already paid for the Forty-second Congress being deducted from the pay of those who had received it.

This act was retroactive, extending back two years, viz, to March 4, 1871.

NOTE.—Stationery was allowed Senators and Representatives, without any special limit, until March 3, 1868, when the amount for stationery and newspapers for each Senator and Representative was limited to $125 a session. This was changed by a subsequent act, taking effect July 1, 1869, to $125 a year. The act of 1873 abolished the allowance for stationery and newspapers.

* * * * * * *

IV.—STATEMENT.

Total compensation and allowance for Senators, under the act of July 28, 1866, from March 4, 1871, to March 3, 1872.

Compensation	$370,000.00
Mileage	37,041.20
Stationery and newspapers	9,250.00
	416,291.20

Average per Senator, $5,625.55$\frac{5}{37}$.

[The remainder of the letter—the names of Senators who received compensation under the retroactive provisions of the several laws, the names of the Senators who covered into the Treasury the amounts due them under the retroactive provisions of the act of 1873, and a comparative statement of the compensation under the two statutes—is omitted. It may be found in Vol. 1, S. Mis. Docs., 1st sess., 43d Cong.]

I am, very respectfully, your obedient servant,

GEO. C. GORHAM,
Secretary.

2d sess. 49th Cong., J. of S., 203.] JANUARY 25, 1887.

Mr. Mahone submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to report to the Senate from what time, according to custom and precedent, the salary of Senators is reckoned and paid.

Ib., 207.] JANUARY 26, 1887.

The President *pro tempore* laid before the Senate a letter of the Secretary of the Senate, communicating in answer to a resolution of the Senate of the 25th instant information in relation to the time at which the salary of Senators is reckoned and paid.

Ordered, That it be laid on the table and be printed.

2d sess. 49th Cong., Cong. Rec., 1029.] JANUARY 26, 1887.

OFFICE OF THE SECRETARY OF THE SENATE,
Washington, January 25, 1887.

SIR: In response to the resolution of the Senate directing the Secretary to report to the Senate "from what time according to custom and precedent the salary of Senators is reckoned and paid," I have the honor to report that so far as I have any knowledge or information the "time" is the beginning of the official term of the Senator. Under the act of March 29, 1867, payments were made from the 4th of March, after the Senator had taken and subscribed the required oath.

This law was subsequently modified by the act of March 3, 1883, so as to authorize payment to those whose term of office began on the 4th of March, and whose credentials have been presented to the Senate, but who have had no opportunity to be qualified.

In case of vacancy by death or otherwise the act of July 12, 1862, provides that the successor shall be paid from the time the compensation of his predecessor ceased.

I have the honor to be, very respectfully, your obedient servant,

ANSON G. COOK, *Secretary.*

Hon. JOHN SHERMAN,
President of the Senate.

SENATORS FROM MONTANA, WASHINGTON, AND NORTH AND SOUTH DAKOTA.

1st sess. 51st Cong., J. of S., 388.] JUNE 24, 1890.

Mr. Ingalls submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire as to the date on which, under the law and precedent of the case the salaries of the Senators from the States of Montana, Washington, and North and South Dakota, respectively, began, and report their conclusions to the Senate.

Ib., 556.] SEPTEMBER 29, 1890.

Mr. Hoar, from the Committee on Privileges and Elections, who were instructed by a resolution of the Senate of June 23, 1890, to inquire as to the dates on which the pay of the Senators from the States of Montana, Washington, and North and South Dakota should commence, submitted a report (No. 1820), accompanied by the following resolution, for consideration:

Resolved, That, in the judgment of the Senate, the Senators from the newly admitted States of North Dakota, South Dakota, Montana, and Washington are entitled to receive their compensation as Senators from the date of the admission of their States.

1st sess. 51st Cong., S. Rept., No. 1820.]

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 29, 1890.—Ordered to be printed.

Mr. HOAR, from the Committee on Privileges and Elections, submitted the following report:

The Committee on Privileges and Elections, to whom was referred the following resolution of the Senate, have considered the same and respectfully report:

"IN THE SENATE OF THE UNITED STATES,
"*June 23, 1890.*

"*Resolved*, That the Committee on Privileges and Elections be, and they are hereby, directed to inquire as to the date on which, under the law and precedent of the case, the salaries of the Senators from the States of Montana, Washington, and North and South Dakota, respectively, began, and report their conclusions to the Senate."

The question arises under the following sections of the Revised Statutes of the United States:

"Section 55. Each Senator, Representative, and Delegate is entitled to a salary (except as to the Speaker) of seven thousand five hundred dollars a year."

(Act of January 20, 1874, reduced the pay of Senators, etc., to $5,000 each.)

"SEC. 49. When any person who has been elected a Member of or Delegate in Con-

gress dies after the commencement of the Congress to which he has been elected, his salary shall be computed and paid to his widow, or if no widow survives him, to his heirs at law, for the period that has elapsed from the commencement of such Congress, or from the last payment received by him to the time of his death at the rate of seven thousand five hundred dollars a year, with any traveling expenses remaining due for actually going or returning from any session of Congress."

(See also act of January 20, 1874, reducing pay to $5,000.)

The Secretary of the Senate has collected the precedents bearing on the subject for the past forty years, which will be found in Appendix A.

It appears from these precedents that the first Senators from California received their per diem from February 13, 1850, although their State was not admitted until September 9, 1850, and they did not take their seats until September 10, 1850.

The first Senators from Minnesota, which was admitted to the Union May 11, 1858, received their pay from the beginning of the session in the previous December, although they did not take their seats until May 12, 1858.

The first Senators from Oregon and Nevada received their pay from the time they took their oaths of office, although their States had been previously admitted to the Union and they had been previously elected, and a considerable portion of the session had elapsed.

The first Senators from Kansas and West Virginia, which States were admitted before the beginning of the session at which the Senators took their seats, were paid from the beginning of that session, although they were not elected or admitted to their seats until afterwards.

The first Senators from Nebraska were qualified March 4, 1867, at the beginning of the Congress, and were paid from that day.

The first Senators from Colorado, which was admitted into the Union August 1, 1876, were elected November 14, 1876, took their seats December 4, 1876, and were paid from that day.

In the case of the Senators from Minnesota, Mr. Bayard, from the Committee on the Judiciary, to whom the matter was referred, reported as the opinion of that committee that the Senators were entitled to compensation only from the date of the admission of their State. But the Senate twice passed a joint resolution directing them to be paid from the beginning of the session. This resolution did not pass the House; the Senate, therefore, at a subsequent session ordered such payment to be made from its contingent fund.

A question similar in principle has arisen in regard to Senators from States whose representation in Congress was interrupted during the rebellion and which after the rebellion were not readmitted till the passage of an act of Congress declaring them entitled to representation. This question was referred to the Committee on the Juidciary in the case of the Senators from Virginia, who reported as follows:

"The Committee on the Judiciary, to whom was referred the letter of the Secretary as to the date when the compensation of the Hon. J. W. Johnson and Hon. J. F. Lewis, Senators from the State of Virginia, should commence, beg leave to report:

"That they regard the principle of the question submitted by the Secretary as settled by the Senate on the 25th of July, 1868, by the adoption of a resolution directing the Secretary to pay the Senators from the State of Arkansas from the 22d day of June, 1868, and the Senators from Florida, North Carolina, South Carolina, and Louisiana from the 25th of June, 1868, being the dates when said States were by law respectively declared entitled to representation in Congress. They, therefore, recommended for adoption the following resolution:

"*Resolved*, That the Secretary be directed to pay the Senators from the State of Virginia the compensation allowed by law from the 26th day of January, 1870, the date of the act declaring said State entitled to representation in the Congress of the United States."

In pursuance of this recommendation, the Senate passed the resolution proposed by the committee. The following named Senators, also, were paid from the date of the admission of their States, respectively: Senators McDonald and B. F. Rice, of Arkansas; Senators Osborn and Welch, of Florida; Senators Pool and Abbott, of North Carolina; Senators Robertson and Sawyer, of South Carolina; Senators Kellogg and Harris, of Louisiana; Senators Lewis and Johnson, of Virginia.

It thus appears that the great weight of the precedents is in favor of the payment of Senators from the date of the admission of their States. The exceptions in the two cases of California and Minnesota were doubtless occasioned by the fact that those States were organized and had appointed Senators before they were admitted, and that the gentlemen elected had been in attendance, urging the admission of their States, which was delayed by Congress.

We therefore recommend the passage of the following resolution:

Resolved, That in the judgment of the Senate, the Senators from the newly admitted States of North Dakota, South Dakota, Montana, and Washington, are entitled to receive their compensation as Senators from the date of the admission of their States.

APPENDIX A.

California admitted into the Union September 9, 1850. Two Senators were elected December 20, 1849, and were qualified September 10, 1850. They received their pay from February 13, 1850.

The statute of January 22, 1818, was then in force, which provided for a per diem compensation of $8 a day each day "he has attended or shall attend," and "that the said compensation which shall be due to the members of the Senate shall be certified by the President thereof." This last provision was interpreted by the act of September 30, 1850, to make the certificate of the presiding officer final and conclusive.

Oregon was admitted into the Union February 14, 1859. Two Senators were elected, one January 13, 1859, the other July 1, 1858; both qualified February 14, 1859, and received their pay from the same day.

Kansas was admitted January 29, 1861. Two Senators were elected April 4, 1861; qualified July 4, 1861, and paid from March 4, 1861.

West Virginia was admitted December 31, 1862. Two Senators were elected August 4, 1863, qualified December 7, 1863, and paid from March 4, 1863.

Nevada was admitted October 31, 1864. Two Senators were elected, one December 15 and one December 16, 1864; both were qualified February 1, 1865, and paid from same day.

Minnesota admitted May 11, 1858. Two Senators elected December 19, 1857; qualified May 12, 1858. Paid from the commencement of the session at which the State was admitted.

(Judiciary Committee reported that they should be paid from date of admission.)

During this period, 1859–1865, the statute of August 16, 1856, was in force: That the compensation of each Senator, etc., shall be $6,000 for each Congress, and mileage as now provided, etc., to be paid in manner following, to wit: On the first day of each session each Senator, etc., shall receive his mileage for one session, and on the first day of each month thereafter during such session compensation at the rate of $3,000 per annum during the continuance of such session, and at the end of such session he shall receive the residue of his salary due to him at such time at the rate aforesaid still unpaid.

In case of death of any Senator before the first session of Congress, he shall receive *neither* compensation nor mileage. In the event of death after the commencement of the first session, a Senator's representatives shall be entitled to receive so much of his compensation, computed at the rate of $3,000 per annum, as he may not have received.

Nebraska admitted March 1, 1867. Two Senators were elected July 11, 1866, qualified March 4, 1867, and paid from the same day.

The act of July 28, 1866, was then in force: "The compensation of each Senator, etc., shall be $5,000 per annum, to be computed from the first day of the present Congress."

Colorado admitted August 1, 1876. Two Senators were elected November 14, 1876, qualified December 4, 1876, and took their seats and received their pay from December 4, 1876.

The law of January 20, 1874, was then in force, which repealed the act of 1873, providing for the increase of salaries of Senators, "and the salaries, compensation, and allowances of all said persons, except as aforesaid, shall be fixed by the laws in force at the time of the passage of said act."

1st sess. 51st Cong., J. of S., 559.] SEPTEMBER 29, 1890.

On motion by Mr. Hoar, and by unanimous consent,

The Senate proceeded to consider the resolution this day reported by him from the Committee on Privileges and Elections relative to the compensation of the Senators from the States of North Dakota, South Dakota, Montana, and Washington; and

Resolved, That the Senate agree thereto.

[Cong. Rec., 1st sess. 51st Cong., 10672, 10673.]

AT SPECIAL SESSIONS.

2d sess. 38th Cong., J. of S., 62.] JANUARY 11, 1865.

Mr. Buckalew submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Finance be authorized to report a bill or joint resolution, providing compensation to members of the Senate at special called sessions of the Senate, commencing with the 38th Congress; such compensation to be confined to sessions when the House of Representatives is not convened, and to mem-

bers who are required to journey from their homes to the capital in order to attend such sessions.

2d sess. 38th Cong., J. of S., 354.] MARCH 11, 1865.

Mr. Davis submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate, out of the appropriation for the compensation and mileage of Senators, pay to the Senators whose terms of service commenced on the 4th days of March, 1863 and 1865, and who were in attendance at the extra sessions of the Senate in these years, respectively, their mileage severally for traveling to the seat of Government.

TO DECEASED MEMBERS' REPRESENTATIVES.

JOHN C. CALHOUN.

1st sess. 33d Cong., J. of S., 246.] APRIL 3, 1850.

Resolved, That the Secretary of the Senate be directed to pay, out of the contingent fund, to Dr. John C. Calhoun, son of the late John C. Calhoun, whatever sum may be due his estate for per diem and mileage.

SENATORS BELL, BUTLER, AND RUSK.

1st sess. 35th Cong., J. of S., 121.] JANUARY 21, 1858.

Mr. Seward submitted the following resolution, which was considered by unanimous consent and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid out of the contingent fund of the Senate to the representatives of the late Senators Bell, Butler, and Rusk, who attended the special session of the Senate convened by the President on the 4th of March last, and who have since died, compensation for the said Senators, respectively, at the rate of $3,000 per annum from the commencement of said session to the time of their decease.

[Agreed to March 10, 1858 (ib. 243).]

LEWIS F. LINN.

1st sess. 36th Cong., J. of S., 277.] MARCH 20, 1860.

Resolved, That the Secretary of the Senate be directed to pay, out of the contingent fund of the Senate, to Mrs. E. A. Linn, widow of the Hon. Lewis F. Linn, late a Senator of the United States from the State of Missouri, the amount of mileage at the special sessions of 1837 and 1841, not received by the deceased.

JAMES H. LANE.

2d sess. 39th Cong., J. of S., 6.] DECEMBER 3, 1866.

Mr. Pomeroy submitted the following resolution, which was read and passed to a second reading:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay, out of the compensation fund of the Senate, to Mrs. Lane, widow of the Hon. James H. Lane, deceased, late a Senator from the State of Kansas, the amount of compensation due the deceased at the time of his death.

[Passed December 5, 1866 (ib., 22).]

JACOB COLLAMER.

2d sess. 39th Cong., J. of S., 38.] DECEMBER 14, 1866.

Mr. Poland submitted the following resolution, which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay, out of the contingent fund of the Senate, to Mrs. Mary N. Collamer, widow of the Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death, according to the act of the last session increasing the compensation of members of Congress.

Ib., 254.] FEBRUARY 13, 1867.

Mr. Williams, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution to pay Mrs. Mary N. Collamer, widow of the Hon. Jacob Collamer, the amount due him at the time of his death, reported it with an amendment.

The Senate proceeded to consider the said resolution as in Committee of the Whole; and the reported amendment having been agreed to, the resolution was reported to the Senate, and the amendment was concurred in.

Ordered, That the resolution be engrossed and read a third time.

The said resolution was read a third time, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay, out of the fund for compensation and mileage, to Mrs. Mary N. Collamer, widow of the Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death, according to the act of the last session increasing the compensation of members of Congress.

Resolved, That the said resolution pass.

[The same resolution, *mutatis mutandis*, was offered for the widow of Senator Foot, of Vermont (ib., 38), and was passed in the same amended form. (February 13, 1867, ib., 253.)]

JAMES T. FARLEY.

2d sess. 49th Cong., J. of S., 452.] FEBRUARY 26, 1887.

Mr. Fair submitted the following resolution; which was referred to the committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate pay to Flora F. Farley, widow of Hon. James T. Farley, deceased, late a Senator from California, the sum of $1,248.80 out of the contingent fund of the Senate, being the amount which would have been due him for mileage had he attended the second session of the Forty-eighth Congress.

2d sess. 49th Cong., J. of S., 523.] MARCH 2, 1887.

Mr. Jones, of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. Fair on the 26th ultimo, to pay certain mileage to Flora F. Farley, widow of the late Hon. James T. Farley, reported an amendment providing for the payment of said mileage, intended to be proposed to the bill H. R. 11234; which was referred to the Committee on Appropriations.

MILEAGE.

1st sess. 42d Cong., J. of S., 163.] MAY 15, 1871.

Mr. Vickers submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Judiciary be requested to examine and report whether the members of the Senate are entitled to mileage at the present special session.

Ib., 178.] MAY 22, 1871.

Mr. Trumbull, from the Committee on the Judiciary, who were instructed by a resolution of the Senate to examine and report whether the members of the Senate are entitled to mileage at the present special session, submitted a report (No. 1) thereon, expressing it as the opinion of the committee that the members of the Senate are not entitled to mileage at the present special session.

Special sess. 42d Cong., S. Rep. No. 1.]

IN THE SENATE OF THE UNITED STATES.

MAY 22, 1871.—Ordered to be printed.

Mr. Trumbull, from the Committee on the Judiciary, submitted the following report:

The Committee on the Judiciary, to whom was referred the resolution of the Senate requesting the committee "to examine and report whether the members of the Senate are entitled to mileage at the present special session," submit the following report:

The act of January 22, 1818 (3 Stat., 404), providing for the compensation of members of Congress, and repealing all former acts on that subject, enacts "That at every session of Congress, and every meeting of the Senate in the recess of Congress, after the third of March, in the year eighteen hundred and seventeen, each Senator shall be entitled to receive eight dollars for every day he has attended, or shall attend, the Senate, and shall also be allowed eight dollars for every twenty miles of estimated distance, by the most usual road from his place of residence to the seat of Congress, at the commencement and end of every such session and meeting."

The act of March 3, 1851, provides "That no member of the Senate shall be entitled to receive compensation for his attendance at the Senate in the recess of Congress during such meeting of the Senate as may be called on the fourth day of March, eighteen hundred and fifty-three, and on the fourth day of March in every fourth year thereafter, other than the eight dollars per diem for attendance now allowed by by law."

The act of August 31, 1852 (10 Stat., 98), provides that the act of March 3, 1851, shall apply to Senators "at all extra sessions of Congress or of the Senate convened within ten days after the adjournment of a regular session."

The act of August 16, 1856, declares that the compensation of each Senator "shall be six thousand dollars for each Congress, and mileage as now provided by law for two sessions only," and further declares the time and manner of paying such compensation. That the act of 1856 was understood by the Senate to repeal those provisions of the act of 1818 relating to mileage at meetings of the Senate during the recess of Congress, and to include the entire compensation and mileage of Senators, no matter how many sessions of Congress or meetings of the Senate were held, is shown by the following amendment to an appropriation bill, adopted by the Senate March 2, 1859, but disagreed to by the House, viz: "That from and after the passage of this act each member of the Senate who may attend any extra or called session of the Senate in the recess of Congress, and who was not a member of either House of Congress at the expiration of the Congress preceding such extra or called session of the Senate, shall be entitled to receive his mileage at said extra or called session of the Senate, instead of the commencement of the regular session of Congress succeeding such extra or called session of the Senate." Had it been understood that Senators were entitled to mileage for attending meetings of the Senate in the recess of Congress, this provision would have been unnecessary, and if agreed to by the House, would have entitled those who were not members of the preceding Congress to draw double mileage at such meeting, which could not have been its design. In accordance with this understanding of the act of 1856, your committee are informed that the Senators have not been paid mileage for attending any of the meetings of the Senate held in the recess of Congress since its enactment.

The act of July 28, 1866, declares that the compensation of each Senator shall be $5,000 per annum, "and in addition thereto mileage at the rate of 20 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session." By implication this statute repeals all former laws inconsistent with its provisions, and in the opinion of your committee limits the compensation and mileage of Senators to $5,000 per annum and mileage in going to and returning from the regular sessions of Congress.

The committee therefore report, in answer to the resolution of the Senate, that the members of the Senate are not entitled to mileage at the present special session.

FRANKING.

The franking privilege had its origin in England, in the reign of Charles II, and seems to have been adopted in this country without much question. Under the statute of 1792, members of the Senate and House of Representatives and the Secretary of the Senate and Clerk of the House had the privilege of sending and receiving, free, by post, letters and packets not exceeding 2 ounces in weight. The statute was limited in its operation to a period of two years but was rëenacted in 1794 and again in 1799, this time without limit as to weight. The same provision is contained in the statute of 1810, with the addition that in case of excess in weight the Clerk of the House of Representatives and Secretary of the Senate should be charged only with the excess. The weight of matter frankable by these officers was limited by the act of 1799 to 2 ounces. By the statute of 1825, the limit of 2 ounces was placed on all matter to be sent under frank by Senators and Representatives. By the same act the time in the recess within which the privilege could be exercised was extended from twenty to sixty days before and after the session. The act of 1845 provided that the charge for any excess in weight of matter received by a member of Congress should be paid out of the contingent fund of the House of which he was a member. By statute of 1847, the privilege was granted for the whole year, and up to the first Monday of December following the expiration of the member's term. The act of 1863 increased the limit of weight to 4 ounces, excepting in case of public documents, etc. Public documents, under all the acts, could be sent free of postage, without regard to weight.

In 1873 the privilege was abolished entirely, and all matter sent through the mail by members of Congress was made chargeable with the same rates of postage as that sent by or to other persons. By the act of 1874 a rate of 10 cents for each bound volume of public documents was established, and for unbound the same rate as on newspapers mailed from the publishers; but, by statute of 1875, it was provided that the Congressional Record, or any part of it, or speeches or reports contained in it, might be sent free under frank of a member of Congress "written by himself," and all public documents were allowed to be sent free under the same conditions. In 1891 members of Congress, and members elect, were given the privilege of sending, under frank, letters to officers of the Government, when addressed officially.

The privilege has been strongly assailed. Numerous petitions for its abolition were presented to Congress in 1848–1850 and several committees reported against it, yet it was continued to 1873 as outlined above. The attitude of the committees will appear from the extracts from reports printed below. A careful discussion of the whole subject will be found in a speech by Mr. Sumner, delivered June 10, 1870. (Cong. Globe, 2d sess. 41st Cong., Part V, 4291.)

ORIGIN OF THE PRIVILEGE.

The following extract from Townsend's Memoirs of the House of Commons, p. 327, *et seq*, are of interest:

The privilege of franking letters was one of the very few honorary distinctions which members of the House of Commons retained at the passing of the reform bill. The sending and receiving letters free had become a mark of consideration, and whilst the loss to the revenue was not considerable, the gratification this boon afforded to the privileged class of conerring little favors should not be lightly esteemed. It seemed the *quiddam honorarium*, the distinguishing sign, the graceful appanage of an M. P. The history of its introduction is curious, for in company with many prized distinctions, it had an ignoble origin in the Pensioner Parliament of Charles II, in a settlement of the revenues of the post-office. When Col. Titus reported the bill [see Grey's Debates], Sir Walter Erle delivered a proviso for the letters of all members of Parliament to go free during their sitting. Sir Heneage Finch said it was a poor, mendicant proviso. The question being called for, the speaker, Sir Harbottle Grimstone, was unwilling to put it, saying he felt ashamed of it; nevertheless the proviso was carried. The restriction of this privilege to the period of Parliament's sitting was speedily overlooked in practice, and for half a century members enjoyed a license of writing "free" over any number of post-office letters, and of inclosing franks in parcels, to be used by their friends and constituents for any period of time, and of any weight.

At the Accession, 1715, complaint was made of great abuses in franking post letters, "tending to the lessening of His Majesty's revenue and to the dispersion of scandalous and seditious libels." As some slight remedy for the evil, the house, in its tenderness, directed that the superscription of each letter should be in the member's handwriting. A very liberal extension of the privilege appears to have been still connived at as an innocent job. Dr. Johnson relates, in his Life of Cave, the printer, that "he was raised to the office of clerk of the franks, in which he acted with great spirit and firmness, and often stopped franks which were given by members of Parliment to their friends, because he thought such extension of a peculiar right illegal. This raised many complaints, and, having stopped, among others, a frank given by the old Duchess of Marlborough to Mr. Walter Plummer, he was cited before the House as for a breach of privilege, and accused, I suppose very unjustly, of opening letters to detect them. He was treated with great harshness and severity, but declining their questions, by pleading his oath of secrecy, was at last dismissed"—no marked encouragement, assuredly, to vigilance in the detection of abuses. That many members (and tradition points strongly to the Scotch) strained this permission to an abuse, there is no doubt. The gossiping Wraxall (Wraxall's Posthumous Memoirs) proves how long and to what extent it prevailed: "Till 1784, neither date nor place was necessary. Not only were covers transmitted by hundreds, packed in boxes, from one part of the Kingdom to the other, and laid upon a magazine for future expenditure, but far greater perversions of the original principle, for purposes very injurious to the revenue, took place. I was acquainted with a member, a native of Scotland, decorated with the order of the Bath, who sent up to London from Edinburgh by one post thirty-three covers, addressed to an eminent banking house in the Strand, most of which contained, not letters, but garden seeds. The postmaster-general had the covers carried up to the speaker's chair; but he voted for Lord North, and the business never came before the house."

Merchants used to send and receive prices current and circulars free, and bankers have been known to realize some hundred pounds a year by an abuse of this advantage. Since the Union, an honorable member has deposited the privilege in the hands of his bankers, to be placed to the credit side of his account, the daily number of twenty-five letters, the full amount allowed to be sent and received, being under his covers.

In 1760, the lords amended a new post-office bill by leaving out the proviso of exemption. The commons agreed to this, on a private assurance from the ministers of the Crown that the privilege should be continued; and accordingly a warrant was issued to the postmaster-general, directing the allowance to the extent of 2 ounces in weight, thus reducing the bulk of letters post free within some moderate dimensions. During the fiscal embarrassments to which the unfortunate American war had reduced the country, Lord North, in opening the budget, intimated one method which had suggested itself of supplying the deficiencies in the revenue, by restraining, or entirely *suppressing*, the privilege of franking. (Parliamentary History, Vol. xxiv.) But the house had become less sensitive to what their predecessors deemed "a mendicant proviso," and interrupted the scheme with such a loud and general murmur of disapprobation, that the easy chancellor of the exchequer stopped suddenly short, and proposed, instead, the taking off the prohibition on foreign countries. The attempt at restraining the boon was renewed by an abler financier, Mr. Pitt, with more decision and with success. He proposed certain regulations, the general object of which was to restrain the number of franks sent or received by any post, and also to restrict them in regard to weight. He designed that in the future all franks should be dated, both as to time and place—a measure which would in some degree limit the advantage, as the limitation ought to be, to the personal advantage of the members of the two houses.

These salutary amendments, yielding a large annual profit to the revenue, were agreed to without a murmur. The late active secretary of the post-office, Sir Francis Freeling, was of opinion that the post-office lost a mere trifle by the modified exercise of this privilege, so much was gained by answers to the letters and by mistakes in the envelopes themselves. The exercise of franking was, after this regulation, watched with such jealousy that, in 1799, a member brought a charge, which the House seriously investigated, against Sir Benjamin Hammet, for deputing to his son the privilege during his illness. His friends justified this laxity of practice by the precedents of former Parliaments, whose members, they urged, delegated this power occasionally to their wives, daughters, and other ladies; but the excuse was not admitted, and the worthy knight received a reprimand, and was cautioned not to offend again.

All possibility of abuse is now at length removed. An economical reform in the post-office, as searching and complete as that of the house itself, has put an end to this counting house convenience and drawing-room luxury. These cheap favors to constituents are abolished, and the last feather in the plume of privilege remorselessly torn away.

STATUTORY PROVISIONS.

Stat. 1792, 1 Stat., 237.]

SEC. 19. *And be it further enacted,* That the following letters and packets, and no other, shall be received and conveyed by post, free of postage, under such restrictions as are hereinafter provided, that is to say, all letters and packets to or from the President or Vice-President of the United States, and all letters and packets, not exceeding two ounces in weight, to or from any member of the Senate or House of Representatives, the Secretary of the Senate or Clerk of the House of Representatives, during their actual attendance in any session of Congress, and twenty days after such session. * * * *Provided,* That no person shall frank or inclose any letter or packet other than his own; * * * and that each person before named shall deliver to the post-office every letter or packet inclosed to him which may be directed to any other person, noting the place from whence it came by post, and the usual postage shall be charged thereon.

* * * * * * *

SEC. 30. *And be it further enacted,* That this act shall be in force for the term of two years from the said first day of June next, and no longer.

[SEC. 19 was reënacted as sec. 19, Stat., 1794, ch. 23, May 8, 1794.]

Approved February 20, 1792.

Stat. 1799, ch. 43; 1 Stat. 737.]

SEC. 17. *And be it further enacted,* That letters to and from the following officers of the United States shall be received and conveyed by post free of postage. Each postmaster, provided each of his letters or packets shall not exceed half an ounce in weight; each member of the Senate and House of Representatives of the Congress of the United States; the Secretary of the Senate and the Clerk of the House of Representatives, provided each letter or packet shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and twenty days after such session; * * * and they may all receive their newspapers by post free of postage: *Provided,* That the members of the Senate and House of Representatives, Secretary of the Senate and Clerk of the House of Representatives shall receive their newspapers free of postage only during any session of Congress and twenty days after the expiration of the same: *And provided,* That no letter or packet from any public officer shall be conveyed by post free of postage unless he shall frank the same, by writing his name and office on the outside of such letter or packet, and until he has previously furnished the postmaster of the office where he shall deposit the same with a specimen of his signature.

SEC. 18. *And be it further enacted,* That if any person shall frank letters other than those written by his order, or the business of his office, he shall, on conviction thereof, pay a fine of ten dollars. * * * And if any person having the right to receive his letters free of postage shall receive inclosed to him any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post-office, marking thereon the place from whence it came, that it may be charged with postage.

Approved, March 2, 1799.

Stat. 1810, chapter 37, sections 24 and 25, reënacted the above sections 17 and 18 of the act of 1799, with the addition of the words in italics, following:

"Each member of the Senate and each member and Delegate of the House of Representatives of the Congress of the United States; the Secretary of the Senate and Clerk of the House of Representatives, provided each letter or packet shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and twenty days after such session, *and in case of excess of weight, that excess alone shall be paid for;*

Approved May 1, 1810.

Stat. 1820, ch. 23; 3 Stat. 548.]

Be it enacted, etc, That during the present and every subsequent session of Congress all letters and packets to and from the President of the Senate *pro tempore,* and the Speaker of the House of Representatives for the time being, shall be received and conveyed by mail under the same restrictions as are provided by law with respect to letters and packets to and from the Vice-President of the United States.

Approved, March 13, 1820.

Stat. 1825, ch. 64; 4 Stat. 110.]

SEC. 27. *And be it further enacted,* That letters and packets to and from the following officers of the United States shall be received and conveyed by post, free of postage, * * * each member of the Senate and each member and Delegate of the House of Representatives of the Congress of the United States, the Secretary of the Senate, and Clerk of the House of Representatives, provided each letter or packet (*except documents printed by the order of either House of Congress**) shall not exceed two ounces in weight, and during their actual attendance in any sessoin of Congress and *sixty days before and after such session;* and in case of excess of weight that excess alone shall be paid for; * * * and each may receive newspapers by post free of postage: *Provided,* That postmasters shall not receive, free of postage, more than one daily newspaper each or what is equivalent thereto; nor shall members of the Senate or of the House of Representatives, the Clerk of the House, or the Secretary of the Senate receive newspapers free of postage after their privilege of franking shall cease.

[Section 28 reënacts section 18 of the act of 1799, and adds to the clause imposing ten dollars fine "and it shall be the especial duty of postmasters to prosecute for said offense."]

Approved, March 3, 1825.

* Changes and new provisions are printed in italics.

Stat. 1845, ch. 43; 5 Stat. 732.]

SEC. 1. *Be it enacted, etc.* That from and after the first day of July next, members of Congress and delegates from the Territories may receive letters, not exceeding two ounces in weight, free of postage, during the recess of Congress, anything to the contrary in this act notwithstanding. * * *

SEC. 5. *And be it further enacted,* That the twenty-seventh section of the act of Congress entitled "An act to reduce into one the several acts for establishing and regulating the Post-Office Department" approved and signed the third day of March, in the year one thousand eight hundred and twenty-five, and all other acts and parts of acts granting and conferring upon any person whatsoever the right or privilege to receive and transmit through the mail, free of postage, letters, packets, newspapers, periodicals, or other matters, be and the same are hereby, utterly abrogated, and repealed.

SEC. 6. *And be it further enacted,* That * * * the Postmaster General is hereby required to cause accounts to be kept of the postage that would be chargeable at the rates prescribed in this act upon all matter passing free through the mail according to the provisions of this act; and the sums thus chargeable shall be paid to the Post-Office Department from the contingent funds of the two Houses of Congress and of the other Departments of the Government for which such mail service may have been performed, and when there is no such fund, that they be paid out of the Treasury of the United States.

SEC. 7. *And be it further enacted,* That * * * the members of Congress, the delegates from Territories, the Secretary of the Senate, and the Clerk of the House of Representatives shall be, and they are hereby, authorized to transmit, free of postage, to any post-office within the United States, or the Territories thereof, any documents which have been or may be printed by order of either House of Congress, anything in this law to the contrary notwithstanding.

SEC. 8. *And be it further enacted,* That each member of the Senate, and each member of the House of Representatives, and each delegate from a Territory of the United States, the Secretary of the Senate, and the Clerk of the House of Representatives, may, during each session of Congress, and for a period of thirty days before the commencement, and thirty days after the end of each and every session of Congress, send and receive through the mail, free of postage, any letter, newspaper, or packet, not exceeding two ounces in weight; and all postage charged upon any letters, packages, petitions, memorials, or other matters or things, received during any session of Congress, by any Senator, member or delegate of the House of Representatives, touching his official or legislative duties, by reason of any excess of weight, above two ounces, of the matter or thing so received, shall be paid out of the contingent fund of the House of which the person receiving the same may be a member; and they shall have the right to frank written letters from themselves during the whole year, as now authorized by law.

Stat. 1847, ch. 33; 9 Stat. 148.]

SEC. 3. *And be it further enacted,* That all members of Congress, delegates from the Territories, the Vice-President of the United States, the Secretary of the Senate, and the Clerk of the House of Representatives shall have the power to send and receive public documents free of postage during their term of office, and that the said members and delegates shall have the power to send and receive public documents free of postage up to the first Monday in December following the expiration of their term of office.

SEC. 4. *And be it further enacted,* That the Secretary of the Senate and Clerk of the House of Representatives shall have the power to receive, and to send, all letters and packages, not weighing over two ounces, free of postage during their term of office.

SEC. 5. *And be it further enacted,* That members of Congress shall have the power to receive, as well as to send, all letters and packages, not weighing over two ounces, free of postage up to the first Monday of December following the expiration of their term of office.

Approved, March 1, 1847.

Stat. 1863, ch. 71; 12 Stat. 708.]

SEC. 42. *And be it further enacted,* That authority to frank mail matter is conferred upon and limited to the following persons. * * * Fifth. Senators and Representatives in the Congress of the United States, including delegates from Territories, the Secretary of the Senate, and Clerk of the House of Representatives; to cover correspondence to and from them, and all printed matter issued by authority of Congress, and all speeches, proceedings, and debates in Congress, and all printed matter sent to them; their franking privilege to commence with the term for which they are elected, and to expire on the first Monday of December following such term of

office. * * * Ninth. All communications addressed to any of the franking officers above described, and not excepted in the foregoing clauses, must be prepaid by postage stamps. The franking privilege hereinbefore granted shall be limited to packages weighing not exceeding four ounces, except petitions to Congress and Congressional or executive documents, and such publications or books as have or may be published, procured, or purchased, by order of either House of Congress, or a joint resolution of the two Houses, which shall be considered as public documents, and entitled to be franked as such; and except also seeds, cuttings, roots, and scions, the weight of packages of which may be fixed by regulation of the Postmaster-General.

SEC. 44. *And be it further enacted,* That this act shall be in force and take effect from and after the thirtieth day of June, eighteen hundred and sixty-three.

SEC. 45. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 3, 1863.

Stat. 1872, ch. 335; 17 Stat. 306.]

SEC. 180. The authority to frank mail matter is conferred upon and limited to the following persons:

Fourth. Senators, Representatives, and Delegates in Congress, and the Secretary of the Senate and Clerk of the House of Representatives, to cover their correspondence, all printed matter issued by the authority of Congress, and all speeches, proceedings, and debates in Congress.

* * * * * * *

And no person entitled by law to the franking privilege shall exercise said privilege otherwise than by his written autograph signature on the matter franked; and all mail matter not thus franked shall be charged with the legal rate of postage thereon.

SEC. 181. That the franking privilege of Senators, Representatives, and Delegates in Congress, and the Secretary of the Senate and Clerk of the House shall commence with the term for which they are elected, and expire with the first Monday of December following such term.

SEC. 182. That all books and publications which may be procured or published by order of Congress shall be considered as public documents, and may be franked as such.

SEC. 183. That the maximum weight for franked and free mail matter shall be four ounces, except petitions to Congress, Congressional and executive public documents, periodical publications interchanged between publishers, and packages of seeds, cuttings, roots, and scions, the weight of which latter may be fixed by regulation of the Postmaster-General.

SEC. 184. The following mail matter thall be allowed to pass free in the mail.

Third. Letters and printed matter sent to Senators, Representatives, or Delegates in Congress, the Secretary of the Senate, or the Clerk of the House of Representatives.

Approved June 8, 1872.

Stat. 1873, ch. 82; 17 Stat. 421.]

Be it enacted, etc., That the franking privilege be, and the same is hereby, abolished from and after the first day of July, anno Domini eighteen hundred and seventy-three, and that thenceforth all official correspondence, of whatever nature, and other mailable matter sent from or addressed to any officer of the Government or person now authorized to frank such matter, shall be chargeable with the same rates of postage as may be lawfully imposed upon like matter sent by or addressed to other persons: *Provided,* That no compensation or allowance shall now or hereafter be made to Senators, members, and delegates of the House of Representatives on account of postage.

Approved, January 31, 1873.

Stat. 1874, ch. 456; 18 Stat. Pt. 3, 237.]

SEC. 13. That hereafter the postage on public documents mailed by any member of Congress, the President, or head of any Executive Department, shall be ten cents for each bound volume, and on unbound documents at the same rate as that on newspapers mailed from a known office of publication to regular subscribers; and the words "public document," written or printed thereon, or on the wrapper thereof, and certified by the signature of any member of Congress, or by that of the President, or head of any Executive Department, shall be deemed a sufficient certificate that the same is a public document; and the term "public document" is hereby defined to be all publications printed by order of Congress, or either House thereof,

Provided, That the postage on each copy of the daily Congressional Record mailed from the city of Washington as transient matter shall be one cent.
Approved, June 23, 1874.

Stat. 1875, ch. 128; 18 Stat. Pt. 3, 343.]

SEC. 3. * * * That the provisions of section thirteen of the act of June twenty-third, eighteen hundred and seventy-four, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June thirtieth, eighteen hundred and seventy-five, and for other purposes," shall apply to ex-members of Congress and ex delegates for the period of nine months after the expiration of their terms as members and delegates, and postage on public documents mailed by such persons shall be as provided in said section.

* * * * * * *

SEC. 5. From and after the passage of this act, the Congressional Record, or any part thereof or speeches or reports therein contained, shall under the frank of a member of Congress, or delegate, to be written by himself, be carried in the mail free of postage under such regulations as the Postmaster-General may prescribe; and that public documents already printed, or ordered to be printed, for the use of either House of Congress may pass free through the mails under the frank of any member or delegate of the present Congress, written by himself, until the first day of December, anno Domini eighteen hundred and seventy-five.

Stat. 1877, ch. 103; 19 Stat. 336.]

SEC. 7. That Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives, may send and receive through the mail all public documents printed by order of Congress, and the name of each Senator, Representative, and Delegate, Secretary of the Senate, and Clerk of the House, shall be written thereon, with the proper designation of the office he holds; and the provisions of this section shall apply to each of the persons named therein until the first day of December following the expiration of their respective terms of office.

Approved, March 3, 1877.

Stat. 1877, ch. 3; 20 Stat. 10.]

Provided, That the Vice-President, Senators, Representatives, and Delegates in Congress, the Secretary of the Senate and Clerk of the House of Representatives may send and receive through the mail, free, all public documents printed by order of Congress, and in the manner provided by section seven of the "act establishing post-roads, and for other purposes," approved March third, eighteen hundred and seventy-seven.
Approved, December 15, 1877.

Stat. 1879, ch. 180; 20 Stat. 356.]

OFFICE OF THE FIRST ASSISTANT POSTMASTER-GENERAL.—For compensation to postmasters, seven million five hundred and fifty thousand dollars. * * * *Provided further*, That from and after the passage of this act Senators, Representatives and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives may send and receive through the mail, free, all public documents printed by order of Congress; and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon with the proper designation of the office he holds, and the provisions of this section shall apply to each of the persons named herein, until the first Monday in December following the expiration of their respective terms of office.
Approved, March 3, 1879.

Stat. 1891; 26 Stat. 1081.]

SEC. 3. That members and members-elect of Congress shall have the privilege of sending free through the mails, and under their frank, letters to any officer of the Government, when addressed officially.

Approved, March 3, 1891.

1st sess. 28th Cong., S. Rep. No. 137.]

IN SENATE OF THE UNITED STATES.

FEBRUARY 22, 1844.—Submitted, and ordered to be printed.

Mr. Merrick made the following report:

The Committee on Post-Offices and Post-Roads have considered the bill (S. 51) and numerous petitions and memorials which have been referred to them on the subject

of the reduction of the rates of postage, the abolition of the franking privilege, and other matters connected with the Post-Office Department, and now beg leave respectfully to return the bill to the Senate, with the recommendation that it be passed, with sundry amendments, which the committee have prepared and herewith submit to the consideration of the Senate.

* * * * * * *

We have seen that dissatisfaction with the existing regulations of the Post-Office Department prevails with a large number of the people of the country; that the consequences of that discontent have been a heavy diminution of its revenues during the past year, and a disregard in several striking instances of the laws enacted for its protection, with the apparent sanction, or at least connivance, of large numbers of the people. Let us, then, carefully inquire whether this discontent does not arise from some such discordant action of that Department as is above alluded to, and whether it be not in the power, and consequently the duty, of Congress promptly to correct this evil, and, by restoring the harmonious action of the Department, bring to its support the good feelings of the public. The *immediate* benefits of the Post-Office establishment accruing to that portion of the people only who carry on correspondence through it, and these enjoying those benefits in very unequal degrees, according to their various pursuits, habits, or inclinations, it has seemed to be required by the principles of equal justice that the expenses of the establishment should be defrayed by contributions collected equally from each person served by it in proportion to the amount of service rendered. The obvious justice of this rule, admitting as it does of so near an approximation to exact justice in its practical application to the business of this Department, has commended it to all; and, accordingly, the Department has always been *professedly* governed by it; but, unfortunately, so wide has been the departure from this just and equitable rule in the actual practice, that it has become a word of promise, kept only to the ear and broken to the sense. Far from exacting of all equal contributions toward meeting the necessary expenses of this Department in proportion to the amount of service rendered to each, about one-eighth part numerically and probably not less than one-sixth part in weight and bulk of the whole correspondence has been privileged to pass free of all charge—to say nothing of the immense amount of public documents conveyed under similar privilege, while the expense of the whole has been borne by high charges upon the nonprivileged part of the correspondence. It may be said this privilege was granted, and has been extended from time to time, for the public service and in furtherance of the public interest. Admitted; but is it not perceived that it still involves a palpable violation of the principles of equal justice, before shown to be at the foundation of all our institutions, and an adherence to which is indispensable in the conduct of all our affairs? How can it be made to comport with any just conceptions of right for the Government to levy so large a tax, for the common purposes of all, upon a portion only of its citizens? As well might the post-office be used as a source of general revenue as to be taxed specially with the expenses of this branch of the public service—a mode of raising revenue for general purposes universally admitted to be so unequal and unjust that it has never been resorted to in this country but in a single instance of extreme necessity, and then only for a very short time. It is true the post-office may be, and is in other countries, successfully resorted to as a means of extorting money from the people, but this must be where the principles of government are widely different from ours, and the leading policy being not the promotion of the happiness and welfare of the many, but the advancement of the few, justifies the use of any means which may subserve that end. There force and fear, not justice and mutual good will, are the controlling influences. According to the nature of our Government, it might with much more propriety be asked by those who use the Post-Office establishment that its whole expense be borne by the general Treasury than that they should be required to defray the expense of the public service performed in this or any other department; because it may with truth be urged that although the advantages of this Department accrue *immediately* to them, yet mediately at least they inure to the great benefit of the whole country.

A fact or two will here show the extent of the injustice done by this privileged correspondence. It appears, from a recent report of the Postmaster-General, communicated to the Senate January 18, 1844 (Sen. Doc. No. 50), that the number of letters franked or received free by postmasters during the month of October last was 130,744, which, averaged for twelve months, would make, during a year, the immense number of 1,568,928; and which, if they paid postage at the average rate charged upon single letters only, would yield the sum of $222,264.80. The same report also shows that there were franked or received free, by other officers of Government, during the same month, 85,339 letters, making for the year 1,024,068; which would yield, at the same average rate (supposing them all to be single, whereas more than half are believed to be usually double and triple), the sum of $145,076.30. The letters franked by members of Congress during the same time were 18,558 in the month,

or 226,696 for the year, and would yield, at the same average rate, $31,548.60. These three sums make, together, the amount of $398,889.70. The whole number of chargeable letters, paid and unpaid, which pass through the mail in a year, according to the same report, is 24,267,552; which would yield, according to the same average rate, $3,437,903.20. Hence it appears that about 12 per cent of what should be the gross revenue of the Department from letters only is withheld by the Government, or granted away by it in the form of privilege to its officers; thereby adding, in the same proportion, to the charge upon the unprivileged correspondence. Or, to illustrate it more plainly, the Government in this way taxes every individual citizen whose letter postage amounts to $1,000 a year (and there are many who pay much more), $120 per annum, and all others in the same proportion, for this branch of the public service, whether they be poor or rich, and no matter how much they may contribute in common with others, under the revenue laws, to the National Treasury.

The committee think these things should not be, and in them they perceive much cause for the recent manifestations of dissatisfaction before alluded to. They therefore recommend the abolition of the franking privilege, except only as regards a very few of the highest officers of the Government, and those citizens who have filled either of the two highest offices, to whom public policy or public gratitude seems to dictate its continuance. The committee would not perhaps have recommended this exception but for the fact that the salaries of all the officers employed in the General Post-Office at Washington are paid out of the general Treasury, amounting to the sum of $165,000 annually; and to this extent, therefore, the Government may with justice charge that Department in the shape of privileged correspondence; and this sum will be sufficient to cover, not only the amount which would be chargeable upon the correspondence of those to whom it is above recommended to continue the privilege, but will also cover any fair estimate of the modified privilege it is wisely proposed by the bill to continue to the members of Congress, to facilitate that intercourse between the Representatives and their constituents which great and leading motives of public policy require to be free and frequent.

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[The remainder of the report is a discussion of the question of the reduction of the rates of postage.]

Respectfully submitted.

WILLIAM D. MERRICK,
Chairman.

1st sess. 31st Cong., S. Rept. No. 148.]

IN THE SENATE OF THE UNITED STATES.

JUNE 3, 1850.—Submitted, and ordered to be printed.

Mr. Rusk made the following report:

The Committee on the Post-Office and Post-Roads, to whom was referred "a bill to reduce the rates of postage," have had the same under consideration, and respectfully report:

* * * * * * *

In connection with uniformity and prepayment of postage there are two cardinal principles essential, in the opinion of the committee, to the efficiency and productiveness of the transportation of the mails:

1st. That everything, the bulk of which is not too great, should be carried under the protection of the mails; and,

2d. That nothing should be so carried without being subject to a fair charge for the service rendered. Under the first of these heads it would seem proper to extend mail facilities not only to letters, pamphlets, and newspapers, as at present, but also to all articles in parcels of a moderate size, such as books and commodities of much value in proportion to their bulk. By such an extension the Government would avoid competition with express companies and individuals who, under the present system, elude with impunity the provisions of the law on the subject, and continue to transmit mailable matter, as it is termed, thus defrauding the Government.

Under the second head the franking privilege, which, as the experience of every day shows, enlarges the mass of matter sent by the mails without any remuneration whatever, and frequently interferes with the transportation of letters, newspapers, and other mailable matter—the committee are perfectly aware that the abolition of the franking privilege has heretofore been one of the chief obstacles in the way of a reform in the Post-Office Establishment; but they can not help believing that when the matter is placed in its true point of view, so as to expose the enormity of the

evil inflicted on the public by the exercise of this privilege, those who have been its advocates will be among the foremost in effecting its removal. Every man has an interest in equalizing public burdens, and it is believed those who act in behalf of the people should and will be ready to do away with an immunity, the effect of which is to oppress every private citizen, and prevent, in a great degree, social and business correspondence. The committee think that the abolition of the franking privilege, in the manner proposed in the bill herewith reported, will operate not only for the benefit of the people at large, but will lessen, to a material extent, the labors of public servants, by making postage payable by those for whose benefits the mails are carried, and preventing the vast influx of correspondence by which their time and attention are occupied. As it is the intention of the committee to appeal to the sound, practical sense of the country in behalf of the change recommended, they propose to avoid all unnecessary display, and to place before the Senate the results of experience in the most concise and best authenticated forms, leaving it to Congress to decide, when such information as can be relied on shall have been laid before it. The circumstances attendant upon the earlier periods of our national history disposed us, naturally, to adopt the system of post-office arrangements which had been in use in the kingdoms of Great Britain and Ireland, with its variety of rates of postage, its franking privileges, its credit system, and the heavy expenses connected with its administration. Instead of charging letters by weight, we imposed the tax on every distinct piece of paper, however small; and, treating the transportation of letters as an individual and specific service rendered to each citizen, rather than as a public advantage, to which all were alike entitled without reference to any peculiar locality, we charged in proportion to distance, confining the privilege to letters, newspapers, and pamphlets. Whilst this system answered its object, to a certain extent, we were disposed to submit to the tax, however unequal and exorbitant, rather than appeal to experiments which might eventuate in disappointment and loss. Year after year rolled round and habit, which reconciles man to almost anything, caused us to forget the possibility of a change for the better. To the rich and prosperous the charge upon each letter, however uncalled for and excessive, was but a trifle when compared with the gratification of receiving business or social information from correspondents or friends. The poor did not find leisure to write, except under the pressure of necessity; and the expense of postage furnished a convenient pretext to the negligent, as well as the needy, for depriving themselves of the gratification of epistolary intercourse.

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When the old system of postage of Great Britain was adopted in this country the franking privilege was included as one of its incidents, and has been retained up to the present time, although, in the great reform on the subject, it was repudiated by the British Government. Members of Congress, and those at the heads of the Executive Departments, have enjoyed this immunity as standing in positions analogous to those of members of Parliament and officers connected with the executive departments in England. However consonant such a provision may have been with the spirit of British political institutions, it must be admitted that, independently of the burden unnecessarily and improperly imposed upon the Post-Office Department in this country, it is totally at variance with the equality of rights that should characterize our free institutions. That the postage arising on the business correspondence of the Government in all its branches should be paid from the public treasury there can be no doubt; but the committee can see no propriety in making a department which was instituted for public convenience, and intended to sustain itself by its own resources, bear the expenses of the Government at large. The payers of postage are also the contributors to the Treasury, in common with their fellow-citizens, for the support of the Government. Then why, it may be asked, should they pay all the postage of the Government in the *form of franking*, when the business thus paid for has no reference to them? or if it has, they have already furnished a fund out of which the necessary expense of correspondence connected with it should be paid. The committee have taken great pains in collecting statistical information respecting the exercise of the franking privilege, and although they may have fallen short of absolute accuracy, they believe the results of their investigation to be sufficiently correct to convey a pretty clear conception of the evil which it produces. It appears that during the 30th Congress there were franked by members—

House documents	467,762 lbs.
House speeches	411,531 "
Senate documents	261,434 "
Senate speeches, estimated by comparison with the House	200,000 "
	1,340,727 lbs.

There are two hundred and ninety members of Congress, and it is reasonable to suppose that they receive and frank at least a thousand letters each during two years, making in the aggregate two hundred and ninety thousand letters. A postage of five cents on one half and two cents on the other half would amount to twenty-two thousand seven hundred and fifty dollars. In 1845 the mail matter sent from and received at the executive offices amounted to five hundred thousand seven hundred and sixty-seven dollars.

It is proper to remark that although different periods are referred to in the above estimate there can be no serious difference, as in 1849 the business could not have been less than in 1845, and therefore the assumption on the part of the committee is likely to be below rather than above the actual amount.

About five years since an effort was made in Congress in favor of a reduction in the rates of postage, and an act was passed establishing two rates, viz, five cents for each half ounce in weight for all distances less than three hundred miles and ten cents on the same weight for all distances greater than three hundred miles. In this change a valuable improvement was effected, not only by the reduction of the rate of charge, but also in the adoption of *weight* as the standard of compensation, instead of the old mode of exacting payment on each piece of paper. The law left untouched, however, the principle of difference in rates, the credit system and the franking privilege, and it was at the expense of no little excitement that the partial reform, which has proved so salutary under the experience of five years, was effected. At the time of the passage of the law the worst consequences were predicted by the opponents of the measure, who foretold that the bankruptcy of the Post-Office Department must necessarily follow. Time, however, the unraveller of human affairs, has told a different tale, and, instead of inevitable ruin, a great enlargement of mail facilities, accompanied by increased revenue, has followed.

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The committee feel that, in approaching the last special point of which they intend to treat in this report—the franking privilege—they are about to enter upon a subject which, in their opinion, forms the prolific source of the greater portion of the evils that exist under the present system. It is to furnish means to supply the deficiency created by the exercise of this *pretended right*, that the social and business correspondence of the people of this country has been taxed and restricted ever since the commencement of the Government. If the mails have been overburdened, and the facilities which they should afford have been withheld from the great mass of American citizens, it has been because the revenues of the Department have been absorbed to a most unwarrantable extent in paying for the transportation of myriads of documents, speeches, and letters from and to members of Congress and the heads of Executive Departments, the cost of conveying which should never have been defrayed by the Post-Office Department, as has been the case. Year after year have the reports of Postmasters-General and Post-Office committees, in both branches of Congress, teemed with the strongest appeals against an evil which was crushing the mail service of the country, but their appeals have been unheeded, lest legislators and executive officers should be obliged to pay for services which, it can not be denied, have been too much the offspring of their own desire for popularity, or the gratification of an inordinate self-esteem. The servants of the people have taxed those who sent them here to a most exorbitant extent, in the form of letter postage, in order that their speeches and documents might be circulated among those who, it is believed, in a majority of instances, did not take the trouble to read what was sent to them. These are unpleasant truths, but they are nevertheless truths, and it is the object of your committee, if possible, to correct this abuse, perpetrated upon every citizen of the country, by reducing the rate of postage to a fair compensation for the service *actually* rendered, requiring repayment *on all letters*, and causing each department of the Government to be held accountable for and made to pay its own legitimate expenses. Nor will the effect of a reform so salutary be disastrous, as some have supposed, even to those who have heretofore enjoyed a privilege which the committee do not hesitate to brand as an outrage upon the spirit of our republican institutions, based as they are, and must be, upon *equality of right*. The committee would ask in what manner can the proposed reform operate unfavorably, either upon members of Congress or the heads of Executive Departments? Is it the paltry postage of two cents each on all letters, for whatever distance? This, as the committee propose, is to be paid by regular appropriations for Congress and for each Executive Department. But, they would further ask, what becomes of this mighty burden when we reflect that, *all letters being necessarily prepaid*, those who have now the franking privilege will receive no letter upon which the *two cents* will not have been paid? Nay, more; will not the fact of their being required to prepay deter thousands who now write to members of Congress and heads of Departments for pastime, or to indulge a childish curiosity, from inflicting their epistles upon them, thus relieving those gentlemen from the toils of a correspondence as irksome as it is useless? If business should require, no man will hesitate to pay his two *cents to obtain* or impart information connected with his own interests. In the

debate which took place in the British Parliament when the penny postage, prepayment, and the abolition of the franking privilege were adopted in 1839 Mr. Francis Baring, a member of the celebrated firm of Baring Brothers, of London, said:

"Undoubtedly we may lose the opportunity now and then of obliging a friend; but on other grounds, I believe there is no member of the House who will not be ready to abandon the privilege. As to any notion that honorable gentlemen should retain their privilege under a penny postage, they must have a more intense appreciation of money and a greater disregard of the value of time than I can conceive, if they insist on it. As to official franking, my idea is that with some few exceptions, which may be considered hereafter, the business of the departments ought to be conducted on the principle that each shall pay its own postage. I am aware that it might be said this will practically amount to taking money out of one pocket and putting it into another; but I think it will tend greatly to diminish the amount of postage paid in these offices, if each is called upon to include that postage in its own contingencies."

In the same debate Sir H. R. Inglis—a high tory, if the committee are not mistaken—denounced the scheme, as "a plan in itself for the benefit of the great traders. He thought it was introduced partly on political grounds, to gain popularity, but mainly for the purpose of benefiting great mercantile houses. Before the franking privilege was limited, they had heard it was worth to a mercantile house £300 to £800 a year; at present it could not be worth less than £300. The great advantage therefore, which this plan held out to mercantile houses, was the cause of the numerous petitions which had emanated from them, and of the meeting at the Mansion House two or three weeks ago. He did not see why, because a tax was to be taken off others, a tax was to be imposed on members. It would be, to those who had much correspondence, at least £15 a year at the reduced rate of a penny a letter. The saving to the revenue would be so very small that he hoped the House would not consent to rescind that privilege."

Sir Robert Peel, on the other hand, "did not think it desirable that members of this House should retain their privilege of franking. He thought if this were to be continued after this bill came into operation, there would be a degree of odium attached to it which would greatly diminish its value. He agreed that it would be well to restrict in some way the right of sending by mail the heavy volumes of *reports*, and said there were many members who would shrink from the privilege to *load* the mail with books. He would also require that each department should specially pay the postage incurred for the public service in that department. If every office be called upon to pay its own postage, we shall introduce a useful principle into the public service. There is no habit so inveterate connected with a public office as the franking privilege."

These remarks, as the committee think, apply as well in this country as in England, and even better.

On the subject of the franking privilege, so far as details are concerned, the committee would respectfully refer the Senate to Postmaster-General Collamer's report, 1849; Postmaster-General Johnson's report, 1848; Senate committee's report in 1844, by Hon. Mr. Merrick; Mr. Dana's report, House of Representatives, first session Twenty-eighth Congress; Postmaster-General Wickliff's report, 1842; Hon. J. M. Niles's, 1840; Mr. Kendall's report, in 1836; Mr. Plitt's report, 1840, and Postmaster-General Barry's report, 1834.

[The remainder of the report is omitted, not bearing on the question.]

3d Sess. 41st Cong., S. Ex. Doc. No. 15.]

LETTER OF THE POSTMASTER-GENERAL, COMMUNICATING, IN COMPLIANCE WITH THE RESOLUTION OF THE SENATE OF THE 12TH INSTANT, A STATEMENT OF THE AMOUNT OF FREE MATTER PASSING THROUGH THE MAILS DURING THE PERIOD OF SIX MONTHS ENDING JUNE 30, 1870.

JANUARY 13, 1871.—Referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

POST-OFFICE DEPARTMENT,
Washington, D. C., January 12, 1871.

SIR: In compliance with the resolution of the Senate passed this day, I have the honor to submit herewith a report prepared by my direction, showing from official returns and estimates, the amount of free matter transmitted through the mails during the period of six months ended June 30, 1870.

Very respectfully, your obedient servant,

JNO. A. J. CRESWELL,
Postmaster-General.

Hon. SCHUYLER COLFAX,
Vice-President of the United States.

FREE MAIL MATTER.

POST-OFFICE DEPARTMENT,
January 7, 1871.

SIR: I have the honor to submit the following report relating to free matter transmitted through the mails for the period of six months, commencing January 1 and ending June 30, 1870.

On the 17th of December, 1869, the following circular to postmasters was issued by your direction:

[Circular.]

Free mail matter.

POST-OFFICE DEPARTMENT,
OFFICE OF THE THIRD ASSISTANT P. M. GENERAL,
Washington, D. C., December 17, 1869.

To Postmasters:

The Postmaster General has this day made the following order:

"*Ordered:* That each postmaster in the United States be instructed to take an accurate monthly account of *all franked or free matter* deposited at their respective offices *for mailing*, for the period of six months, commencing January 1 and ending June 30, 1870; and to make special reports thereof to the Third Assistant Postmaster General at the close of each month, embracing the following particulars, viz:

"1. The number of franked or free letters, and the amount of postage that would be chargeable thereon at the established rate of postage.

"2. The weight of franked or free matter OTHER THAN LETTERS, and the amount of postage that would be chargeable thereon at the current rates of postage."

Postmasters will carefully conform to the foregoing instructions, USING THE INCLOSED FORM, which must be promptly forwarded to *this* office at the close of each month.

Should this circular fail to be received at any post office in time to commence taking an account of free matter on the first of January, 1870, let the return for that month include such portion of the month as may remain when the circular is received.

By order of the Postmaster General:

W. H. H. TERRELL,
Third Assistant Postmaster General.

[The form referred to may be found in S. Ex. Doc. 15, p. 2, 3d sess. 41st Cong.]

Suitable records were provided in which all the post-offices were entered in alphabetical order, with appropriate headings for the compilation of the returns, and about the middle of October last the work of entering them was commenced. Eight temporary clerks were employed, the regular clerical force of the Department being insufficient to do this extra work.

Their labors have this day been completed with the following result: The total number of post-offices from which reports were due was 28,492; number from which full or partial reports were received, 8,583; number wholly failing to report, 19,909. In a number of cases the returns received did not cover the whole period of six months; in such cases the returns made were accepted as *a basis* upon which the whole period was estimated *by average.*

The returns of the 8,583 reporting offices show that within the six months there were transmitted 5,140,796 franked letters, the postage upon which at the established rate amounted to $655,548.55, and 2,047,971 pounds and 10 ounces of other franked matter, such as printed documents, seeds, etc., upon which the postage at the established rates amounted to $260,847.84, making altogether for the 8,583 reporting offices for six months for the postage on free matter the sum of $916,396.39.

This leaves, to be estimated, the free matter transmitted from 19,909 nonreporting post-offices. To make the estimate in the fairest way possible, I have deducted from the foregoing returns the amounts reported from fourteen of the largest and most important offices of the country, to wit: New York, Chicago, Philadelphia, Boston, Baltimore, Washington, Cincinnati, St. Louis, Pittsburg, Indianapolis, Detroit, Louisville, New Orleans, and San Francisco. In this way an average is calculated for the 19,909 nonreporting offices, giving for each 289 letters, postage $13.94, and 30 pounds 8 ounces printed and other free matter, postage $3.89; total postage for each office, $17.83. I can devise no more liberal plan than this for the utilization of the returns received whereby they may be applied to all the post-offices of the country; and yet in my own mind I am satisfied had complete and accurate returns

been received from all the offices the amount of postage would have been at least 25 per cent greater.

From the above returns and estimates the following grand result is shown: Total number of franked letters for six months, 10,894,497—postage, $933,070; printed matter, etc., 2,655,196 pounds—postage, $338,593.85. Total postage for six months, $1,271,663.86; total for one year, $2,543,327.72.

For convenience of reference the foregoing facts are tabulated, as follows:

	Letters.		Printed matter.	
	Number.	Postage.	Weight.	Postage.
			Lbs. oz.	
Reports received from 8,583 offices.	5,140,796	$655,548.55	2,047,971 10	$260,847.84
Deduct reports from Baltimore, Boston, Chicago, Cincinnati, Detroit, Indianapolis, Louisville, New Orleans, New York, Philadelphia, Pittsburg, St. Louis, San Francisco, and Washington, D. C 14 offices.	2,667,293	535,962.19	1,786,736 05	227,560.05
Total from 8,569 offices.	2,473,503	119,646.36	261,235 05	33,287.79
Average for each of the 8,569 offices	289	13.94	30 08	3.89
Total number of offices in United States on June 30, 1870 28,492				
Number from which reports were received 8,583				
Offices not reporting 19,909				
19,909 offices, based on above average	5,753,701	277,531.46	607,224 08	77,746.01
8,583 offices, from actual reports	5,140,796	655,548.55	2,047,971 10	260,847.84
28,492 offices, for six months	10,894,497	933,070.01	2,655,196 02	338,593.85
Add for printed matter		338,593.85		
Total postage for six months		1,271,663.86		
Total postage for one year		2,543,327.72		

Respectfully submitted.

W. H. H. TERRELL,
Third Assistant Postmaster-General.

Hon. JNO. A. J. CRESWELL,
Postmaster-General.

3d sess. 46th Cong., H. Rep. No. 389.]

ABUSE OF THE FRANKING PRIVILEGE.

MARCH 3, 1881.—Ordered to be printed, with the views of the minority.

Mr. Converse, from the Select Committee on Abuse of the Franking Privilege, submitted the following report:

The select committee appointed to investigate abuses connected with the transmission of letters, documents, and other matter through the mails of the United States, beg leave to make the following report:

The resolution of the House of Representatives adopted January 11, 1881, under which said committee was appointed, reads as follows:

"Whereas charges have been made that the laws of the United have been violated by sending through the mail, under the frank of members of the House of Representatives and the Senate, of matter not authorized to be sent without the payment of postage—

"*Resolved*, That a select committee of five be appointed by the Speaker of this House to examine into said charges and all other abuses that may be brought to their attention connected with the transmission of letters, documents, or other matter through the mails of the United States; that said committee shall have power to sit during the sessions of the House, to send for persons, papers, and records, to administer oaths, and to report to this House, by bill or otherwise, its findings and con-

clusions at any time. The expense of said investigation shall be paid out of the contingent fund of the House."

Immediately after appointment your committee organized, and on the 14th of January, 1881, began the taking of testimony on the subject mentioned in the resolution. They have examined forty-one witnesses and held twenty-four sessions of the committee.

The statutes providing for and regulating free matter passing through the mails of the United States are embraced in sections 5 and 7 of the act of March 3, 1875 (U. S. Statutes, vol. 18, p. 343), and section 1 of the act of March 3, 1879 (U. S. Statutes, vol. 20, p. 356), and are as follows:

"SEC. 5. The Congressional Record, or any part thereof, or speeches, or reports therein contained, shall, under the frank of a member of Congress or Delegate, to be written by himself, be carried in the mail free of postage *under such rules* and regulations as the Postmaster-General may prescribe.

"SEC. 7. That seed transmitted by the Commissioner of Agriculture, or by any member of Congress or Delegate receiving seeds for distribution from said department, together with agricultural reports emanating from the department and so transmitted, shall, under such regulations as the Postmaster-General prescribe, pass through the mails free of charge. And the provisions of this section shall apply to ex-members of Congress and ex-delegates for the period of nine months after the expiration of their terms as members and delegates.

"SECTION 1. [Act of March 3, 1879.] Senators, Representatives, and Delegates in Congress, the Secretary of the Senate, and Clerk of the House of Representatives *may send and receive* through the mails free all public documents printed by order of Congress; and the name of each Senator, Representative, Delegate, Secretary of the Senate, and Clerk of the House shall be written thereon, with the proper designation of the office he holds, and the provisions of this section shall apply to each of the persons named herein until the first Monday of December following the expiration of their respective terms of office."

It will be observed that the last-named act is an extension of the privileges of the mails beyond that authorized by the act of 1875. Both require the name of the officer to be written on the document; but no frank is required to send seeds or reports from the Agricultural Department through the mails, whether sent by the Commissioner of Agriculture or a member of Congress. That act authorizes each Senator, Member, Delegate, the Clerk of the Senate, and Clerk of the House, to receive the designated matter through the mails free of postage, as well as to send it free. The officer could not be expected to frank the documents which he is entitled to receive free. The law, therefore, must contemplate that the name and designation of office may be written by another. The earlier statute provides that the business shall be done "under such regulations as the Postmaster-General may prescribe." That provision is omitted in the act of 1879.

Your committee are of opinion that the object and intention of Congress in the enactments was to give the designated matter free passage in the United States mails rather than create a privilege for the officer who may send it. The distribution of documents, seeds, and cuttings is an onerous and laborious official duty. The purpose of the law was not to benefit the officer or Representative, but it was to benefit the constituent and voter, and keep him advised as far as possible of the transactions of the Government. So that whoever sends documents printed by order of Congress through the mails, whether reports or speeches, to be distributed among the people, contributes to the spread of intelligence and knowledge, and promotes the primary objects and purposes of the statute.

Your committee find that the practice of permitting clerks of committees and private secretaries, or some political or personal friend, to frank documents has prevailed with a majority of Senators and Members under the present as well as former laws regulating the franking of documents. This delegation of authority, though not a violation of law, is liable to abuse, and especially so when the first agent is permitted to employ as many different persons as he chooses to assist him in the work of franking. The latter practice is vicious, and ought to be condemned. Whether known to Members and Senators or not, it has been practiced to a very considerable extent by both political parties during heated political contests.

The law does not require the officer to certify to or designate the character of the document. A large number of Senators and Members of Congress have used for years a *facsimile frank*, and matters so franked have been permitted in the mails by postmasters throughout the country.

Your committee are not prepared to say that that practice is illegal, but, as in the other mode of franking, it is liable to abuse. As long as it covers only a frankable document, no harm is done.

Your committee find that of the thirteen Democratic members whose names were reported by the postmaster at Washington, in the papers sent to your committee, to have been found on envelopes detained in his office, eleven gave permission for the

use of their names by some clerk or friend in sending such matter as was, under the law, frankable. One did not give his consent. He was written to for that purpose, but did not reply to the letter. As to the thirteenth name, the postmaster himself was mistaken. He had no envelopes with that member's name on them. A very large number of franked envelopes were furnished on the application of the secretary of the Democratic Congressional committee, by the Democratic members of Congress, at or before the opening of the last political campaign, to be used in sending to their constituents or into their respective States frankable documents, and in several cases particular clerks or friends of the member were authorized to use the frank, and in some instances the secretary of the committee was given permission to do so. So far as your committee could learn, no complaint has ever been made of any improper use of franked envelopes to cover unfrankable matter. Franked envelopes were furnished from time to time by committee clerks and by members for such proper use to the end of the campaign. Your committee find that franking by the hand of another has been practiced by members of all parties ever since the franking privilege was granted.

As to the Republican Congressional committee and their mode of sending out documents, your committee find that fifty-six Republican Members and Senators either directly consented to the use of their respective names for franking documents by the Republican Congressional committee, or wrote to that committee for documents to be sent into their respective districts or States, which was construed into a consent for the use of their respective franks for that purpose, and their franks were accordingly used by that committee. The assistant secretary testified that whenever he sent documents into any district he always used the frank of the member of that district, if a Republican. But if such district was represented by a Democrat, then he used the frank of some Republican Member or Senator from that State. He said he put on the frank without any authority whatever, and that the exigencies of the business required it, and he supposed others did the same way. The greater part of five millions of documents were sent out and distributed to every Congressional district in the United States from the Republican headquarters in Washington through the Washington post-office under a stamped frank. Notwithstanding, the Washington postmaster testified that he could tell a stamped from a written one, and that he had carefully scrutinized the mail matter from the Republican headquarters during the entire canvass and that none of it bore a stamped frank. Your committee further find that one of the clerks in the Washington post-office himself used a stamp in said office and sent out therefrom mail matter under such frank.

Your committee are of the opinion that the use of a stamp or *facsimile* frank by a member of Congress to cover matter which, by law, is free in the mails of the United States is not a violation of law. Your committee further find that the Washington postmaster, without legal process and in violation of the post-office laws, sent 9,000 franked envelopes by mail without the payment of postage from Washington to Pottsville, Pa., to be used in behalf of a Republican editor at that place in a suit with a member of this House—thus doing himself the very act which he charged upon others.

It is true as charged that eleven mail bags, containing boxes of franked envelopes without any inclosures in them came to the Washington post-office on about the 20th of September, 1880, directed to Duncan S. Walker, secretary, etc., at the Democratic committee rooms, under the frank of a Senator. Where they came from, the postmaster does not and could not know. The stamps on the tags indicate that they came from New York. The directions on the tags had been changed, some name having been scratched off and Duncan S. Walker's name put on. The frank of the Senator is not in that gentleman's handwriting. Who put it there does not appear. Who franked the envelopes does not appear. The envelopes bear the names of Democratic Congressmen. Duncan S. Walker is of opinion that the envelopes had been sent by mistake (supposing they were documents) from Washington to New York, and when it was found out that they were only envelopes that they were returned in the same manner in which they had been sent; but he has no knowledge on the subject. The Washington postmaster is of opinion that they were sent from Washington to New York by mail, and not being used were returned to Washington again.

By a singular coincidence, about the same day (September 20) a package was returned to the Washington post-office as "rejected," or "not delivered," from Newton, Ohio, which was said to have broken open accidentally in transit, and which it is said contained, under frank, documents not frankable, and of the same character as those being circulated by the Democratic party. Neither the frank nor the documents thus coming from Newton, Onio, were ever shown to either the chairman, secretary, or any member of the Democratic committee, neither has it been exhibited to your committee.

By the same singularity, on or about the same day (September 20), a Republican employé of the Democratic committee went to the Washington post-office and gave

information that unfrankable matter was being put up and sent off under frank from one of the rooms at Democratic headquarters. It turns out that another Republican, by the name of Gibson, was in charge at that room, with thirty or forty employés under him. Still further complicating the events which thus crowd together, the Washington postmaster states that in changing the mail which came from the Democratic committee rooms, either on that or the next day, some of the bundles accidentally broke open, and the postmaster discovered that some of the documents in the packages under frank were not frankable. None of the packages or documents thus found to be unfrankable were ever returned to the Democratic committee rooms, or shown to any member of it, nor has any of it been exhibited to your committee. All the mail from the Democratic committee rooms which accumulated at the Washington post-office for several days from and after the 20th of September were detained, and amounted to thirty or forty bags. Correspondence was then had between the postmaster and Walker, and the packages which had not been opened were returned to the committee rooms, and on examination found to be correct, with the exception that some paid matter was slightly over weight; and in one package one of the employés found a dozen speeches, unfrankable, put with frankable matter, but that fact was first made known in the testimony before your committee.

The bags of mail matter thus returned were taken to the Democratic committee rooms and opened publicly in the presence of a number of the employés, who were witnesses before your committee, and so far as the testimony shows nothing was found to show intentional fraud, or which might not have occurred by accident.

The paid matter was reduced, returned to the mails, and the residue sent by express, for the reason, as Walker states, that he was then in receipt of between 300 or 400 letters of recent date, complaining that his correspondents had not received remittances of documents sent by mail, and he concluded that Democratic documents were being detained in the post-offices of the country for political reasons. A hundred or more of the letters have been submitted to your committee, showing complaints that the writers had failed to receive documents.

Gibson, the Republican in charge of the room, and Ridgate and Galer, two Republicans under him, testify to putting up frankable and unfrankable matter in the same package; and Gibson testifies that he was directed by McDonnell, who was chief clerk under Walker, to put it up in that way, with the frankable matter on the outside and the unfrankable matter on the inside of the page, so that, when franked, if it should be opened by accident or otherwise, the frankable matter would be exposed and the unfrankable matter concealed. Two of the three persons say that they saw franked slips pasted on some of the packages of unfrankable matter. On the other hand, McDonnell testified that he had never given such instructions to Gibson or any one else. He says, on the contrary, he frequently cautioned all the persons employed, including Gibson, to be very careful to keep those packages which were frankable from those that contained unfrankable matter. Walker supports McDonnell in this, and ten employés were examined by your committee, who testify that they heard these cautions frequently given, four of whom testify to hearing that caution given by McDonnell to Gibson himself on different occasions during the canvass.

In the midst of these contradictions we are obliged to look to the witnesses themselves to determine which statement is probably true.

1. The three witnesses are contradicted by ten or twelve witnesses of equal character and intelligence, in some particular.

2. The three are Republicans, testifying about their political opponents.

3. One of them was dismissed from the service of the Democratic committee for taking that which did not belong to him, on account of which he threatened vengeance against the members of the committee. He told the messenger who subpœnaed him that he expected the Republicans to do something for him, on account of his informing on the Democratic committee, but that they had not done so yet. Mr. Gibson has shown zeal in visiting and talking to the witnesses who concurred with him before they gave their testimony. While he was foreman of the room he was discovered sending a package or packages of unfrankable matter under a member's frank to some of his friends in Pennsylvania, and was severely reprimanded therefor, and told he would be discharged if it was ever repeated.

Your committee are therefore of opinion that the charges made against the Democratic Congressional Committee are not sustained by the proof. The Democratic and Republican committees both did their business in much the same manner. Both frankable and unfrankable documents were kept in and distributed from the same room. Some of the matter was sent off in single envelopes.

Three different classes of matter were put up and sent off in packages. Some packages were composod exclusively of frankable matter. This class, together with that put in single envelopes, was intended to be sent under frank. Another class of packages was composed of both frankable and unfrankable documents, and were called "sets," consisting of one or more documents of each kind, printed by the

respective political parties. Another class consisted exclusively of unfrankable matter. The two latter classes were intended to be sent by mail on payment of postage, or by express. From ten to thirteen millions of documents were distributed by each committee within the space of a few weeks. That there should be mistakes in so large and crowded a business; that packages which were frankable should be sent by express or under postage, and some that were unfrankable should get mixed with those that were frankable, and so escape the payment of postage, is not marvelous. But that there was any intention to perpetrate any frauds on the part of either the Republican or Democratic Congressional Committees, by improper use of the franking privilege, is not proven, and your committee do not believe.

Your committee find that Government envelopes, which are furnished under the law by the various departments and executive offices of the Government for themselves, to cover under penalty only official correspondence, and which pass free in the mails of the United States, are in fact used for the transmission of other than official matter. Three of the five members of your committee have received through the mails in such envelopes matter chargeable with postage. Your committee have like information from two Senators and several members of the House, and the testimony likewise shows that many such envelopes are dropped in the street mail boxes or at the Washington post-office which would not be likely to occur if used by executive offices, because their mail is taken several times each day by carriers directly from the departments, and there would be no occasion to drop official communications in the street boxes or at the city post-office. These envelopes are manufactured by the million, by different parties on contract, and there is as great a variety in the style as the executive officers are numerous, thus affording every facility for, if not inviting, frauds upon the postal revenues. This evil ought to be remedied.

Your committee recommend on this point for Government envelopes which shall pass free in the mail:

1. That they should be made out of special paper, manufactured for that particular purpose, which could not be easily counterfeited. If so made the paper could be made light and strong, and being manufactured in large quantities would not cost more than by the present mode.

2. Each envelope should have the impression of an engraved die upon it which could not be easily counterfeited.

3. Each executive officer should be required, under severe penalties and before the envelope and contents should be received in the mails, if sealed, to place a written or stamped certificate on the same after it is so sealed, certifying that it contains only official free matter and also the date when so used.

Mr. Browne submitted the following as the views of the minority:

The undersigned do not agree with the majority in some of their conclusions, nor do we think the report of the committee on some points sustained by the evidence. We therefore briefly express the views of the minority.

There were three instances only brought to the attention of the committee in which the evidence tended to show a violation of the postal laws of the United States in the transmission of matter through the mails.

1. A large number of empty envelopes, purporting to bear upon them the frank of Hon. J. W. Ryon, were some time in the month of November last forwarded in a mail pouch, and by mail, from the post-office at Washington to Pottsville, Pa. The circumstances were these: Mr. Ryon had caused a prosecution to be instituted against the editor of the Pottsville Republican for libel in falsely charging him (Mr. Ryon) with the illegal use of the franking privilege. Certain empty envelopes, bearing what purported to be Mr. Ryon's frank, had been received by mail at the Washington post-office, and were detained there. These envelopes were thought to be important evidence by the defendant in his defense to the libel suit, and he sent an attorney to Washington to secure their use as evidence on the trial. In the absence of Mr. Ainger, the postmaster, Mr. Bell and Mr. Springer, two of the employés in the post-office, one having charge of the city delivery and the other of the outgoing mails, caused these envelopes to be sent by mail so they might be used at the trial. The packages were not postage-paid, and were forwarded in violation of law, but we think the circumstances fully acquit these gentlemen of any criminal purpose.

2. There were received at the Washington post-office through the mails, in sacks, some 77,250 empty envelopes. These envelopes bore what purported to be the franks of members of Congress, the names of twelve Democratic members being used.

The tags attached to the mail sacks bore the purported frank of Hon. W. A. Wallace. The post-office from which this matter was forwarded is not clearly shown, but we believe the evidence justifies us in the conclusion that it was the city of New York. From the appearance of the tags, we also believe it was first sent by mail from Washington to New York. By whom it was sent the evidence does not show, although the circumstances leave no doubt that the envelopes

were prepared under the auspices of the Democratic National Committee at Washington. The evidence shows that the signature or purported frank of Senator Wallace is not genuine. That the transmission through the mails of this matter without the payment of postage was unlawful, we assume will not be controverted. We are not able to fix the responsibility of this transaction upon any individual. There is no evidence tending to show that any of the gentlemen whose names were borne on the envelopes had any connection with it.

3. The gravest charge which the committee was called upon to investigate was that one J. B. McDonnell, who was an employé of the Democratic National Committee, and engaged as a general superintendent of the business of folding and forwarding its political documents, directed some of his employés to put up for transmission through the mails, under frank, matter known not to be frankable under the law. The evidence as to this charge is voluminous, and it is impossible now, in the closing hours of this session, to review it in detail.

One W. H. Gibson was in the employ of the Democratic National Committee from about the 1st of September until some time in October. He had supervision of the folders of documents in one of the corridors of the Capitol. He testifies that McDonnell gave him instructions to put up packages with frankable matter on the outside, and such as was not frankable on the inside; that this matter was to be and was franked, and was removed for transmission by mail. Gibson's testimony is corroborated by that of Joseph H. Galef, W. S. Ridgate, and Samuel J. Price, also employés of the Democratic committee. It is strengthened by the fact that matter put up as described by him was actually found in the mails.

Some twenty or more mail sacks of franked matter sent to the post office at Washing by the Democratic committee for transmission through the mails were detained in that office by the postmaster for the reason that one or more of the packages which had accidentally been broken open were found to contain matter not entitled to go out under frank. This matter was delivered to the Democratic committee upon the order of Gen. Walker, its secretary.

Against the conclusion to which the above facts inevitably lead is interposed the testimony of Mr. McDonnell, who testifies that he never gave Gibson or any other person directions to fold or send unfrankable matter under cover of a frank, but he was careful to direct precisely the contrary. Numerous employés testify that McDonnell repeatedly enjoined them to be careful in keeping the matter to be sent under frank and that requiring payment of postage separate, so that none would be illegally sent. It is also in evidence that the mail matter returned from the Washington post-office for attempted violation of the franking privilege was subject to examination, package by package, by Gen. Walker, and but one unfrankable package at most was found therein.

However this may be, it is admitted that these facts were not communicated to the postmaster at Washington—that this matter was not returned to that office for transmission, but all was sent out afterwards by express.

Gen. Walker's explanation of these admitted facts is—

First. That he had received many letters complaining that the writers did not receive their documents sent by mail, and he forwarded these by express to make the delivery more expeditious and more certain; and, secondly, that soon after the transaction of detaining and returning this mail his conduct in this connection was criticised by a Republican paper of this city, and he did not care to vindicate himself, except through the press, which he did.

As the letters of complaint to which General Walker refers were largely written before he sent this matter in the first instance to the post-office, it strikes the minority that the propriety of sending it by express should have occurred to him. The minority also think that the very fact that this transaction was being severely commented upon by the press should have created a very strong and sincere desire on the part of Gen. Walker to promptly inform the postmaster here of the facts by which he was so fully vindicated.

The above-recited facts, tending strongly to show that Gibson's statement is true, are supplemented by the evidence of several of the other employés of this committee, in which they testify that the fact that matter was being sent out in fraud of the franking privilege was the subject of frequent conversation among the men employed in the folding and forwarding rooms. We believe Gibson's statement to be true.

THOMAS M. BROWNE.
GEO. D. ROBINSON.

1st sess. 34th Cong., J. of S., 209.] MARCH 26, 1856.

Mr. Butler submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be instructed to inquire into the expediency of discontinuing to the members of Congress their franking privilege, and that in lieu thereof they be allowed ——— dollars to enable them

to transmit through the mail such letters, communications, papers, and packages as they may think proper.

Resolved, That said committee, should they think proper, be authorized to report a bill regulating the rates of postage on the papers and packages aforesaid.

1st sess. 35th Cong., J. of S., 244.] MARCH 10, 1858.

Mr. Yulee submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Post-Offices and Post-Roads be instructed to consider the expediency of limiting the franking privilege of the executive and legislative departments on printed matter.

1st sess. 43d Cong., J. of S., 64.] DECEMBER 11, 1873.

Mr. Gordon submitted the following resolution for consideration; which was ordered to be printed:

Whereas the abolition of the franking privilege was intended to economize the expenditures of the Government; and whereas its abolition prevents the general distribution to the people of improved field and garden seed, thus defeating in a measure the benefits which would otherwise accrue to the agriculture of the country from the establishment of the Agricultural Bureau, and also discourages the distribution of public documents which afford important information, and are an education to the people; and whereas to compensate the people for these losses there should be important reduction of the expenditures in the postal service of the Government: Therefore,

Resolved, That the Postmaster-General be requested to report for the information of the Senate:

First, what amount of expense, if any, has been saved to the Government by the abolition of the franking privilege.

Second, how many employés in the mail service, if any, have been discharged, and how much less, if anything, is charged by the railroads or other carriers for the mails since the abolition of the franking privilege.

Third, how much less appropriation will be required for the postal service by reason of the abolition of the franking privilege.

Ib., 70.] DECEMBER 15, 1873.

On motion by Mr. Gordon,

The Senate proceeded to consider the resolution submitted by him the 11th instant, calling upon the Postmaster-General for certain information relative to the abolition of the franking privilege; and having been amended on motion of Mr. Gordon, the resolution, as amended, was agreed to as follows:

Whereas the abolition of the franking privilege was intended to economize the expenditures of the Government; and

Whereas its abolition prevents the general distribution to the people of improved field and garden seeds, thus defeating in a measure the benefits which would otherwise accrue to the agriculture of the country from the establishment of the Agricultural Department; and also discourages the distribution of public documents which afford important information and are an educator of the people; and

Whereas to compensate the people for these losses there should be an important reduction of the expenditures in the postal service of the Government: Therefore,

Resolved, That the Postmaster-General be requested to report, for the information of the Senate:

1. What amount of expense, if any, has been saved to the Government by the abolition of the franking privilege; and that he state fully and specifically the items in which expense has been saved, and the amount so saved in each and every particular, separating in his report the particulars in which expense has been saved, and the amount so saved by the abolition of the franking privilege as it relates to members of Congress, heads of Departments, and all other formerly free mail matter.

2. How many employés in the postal service have been discharged, and how much less is charged by railroads and other carriers of the mail since the abolition of the franking privilege, and whether any additional clerks and additional expense have been added to the Department in the care, sale, etc., of postage stamps, and the amount of clear profit arising by reason of the additional sale of stamps.

3. The amount of revenue derived from each class of mailable matter, respectively and specifically, as to letter postage, and postage upon books, newspapers, and pamphlets, and as to registered letters and the money-order business, and the gross amount avoirdupois, of such class transported through the mails.

4. Whether it has been the practice of the Departments, or either of them, since the appropriations have been made for official stamps, to send documents or pack-

ages, heretofore sent by mail, by express; if orders have been issued by any Department to its subordinates to send such matter to the Department by express and not by mail, and out of what appropriation payment for such expressage has been made.

5. Whether the Postmaster-General construes the law as authorizing the free transmission of mail matter by or to the Post-Office Department.

6. How much less appropriation will be required for the postal service now than prior to the abolition of such privilege.

Ib., 160.] JANUARY 20, 1874.

The President *pro tempore* laid before the Senate a report of the Postmaster-General, communicating, in compliance with the resolution of the Senate of December 15, 1873, information relative to the amount saved to the Government by the abolition of the franking privilege.

Ordered, That it lie on the table and be printed.

[See 1st sess. 43d Cong., Sen. Ex. Doc. 22.]

PRESIDENT OF SENATE.

The President of the Senate was first elected on the organization of the Senate for the sole purpose of counting the votes for President and Vice-President. This accomplished, a second election to choose a President *pro tempore* was held. This officer held the office only until the arrival of the Vice-President, and until very recently the President *pro tempore* was elected each time the Vice-President was absent. Whether the term also expired at the meeting of the Senate after the first recess following his election, was a question until 1876. In that year the Senate decided, after a careful consideration of the subject, that the office was held at the pleasure of the Senate, and until the Vice-President resumed the chair, or his term as a Senator expired, the President *pro tempore* continued in office unless the Senate should in the meantime chose another. At the same time it was decided that the death of the Vice-President during the recess had no effect on the position of the President *pro tempore*.

In 1890 the Senate decided that it was competent to elect a President *pro tempore*, who should hold the office during the pleasure of the Senate, and should execute the duties of his office when the Vice-President was absent, until another was elected. The office may be resigned like any other.

January 11, 1847, Vice-President Dallas, being absent for the day, had requested Senator Atchison to preside. The Senate refused to allow this, but, by election, chose Mr. Atchison President *pro tempore*. In several cases, however, in the temporary absence of the President *pro tempore*, a Senator designated by him has taken the chair by unanimous consent. The right of the President *pro tempore* to make this appointment was questioned in 1882, and the rules were then changed to allow him, when temporarily absent, to designate a Senator to perform the duties of the chair during his absence, or until the Senate should otherwise order.

When acting as President of the Senate during a vacancy in the office of Vice-President, the President *pro tempore* receives the compensation of the Vice-President.

[On the question of the power of the Vice-President in maintaining order *v. supra*, pp. 118 and 120.]

ELECTION.

1 J. of S., 7.] APRIL 6, 1789.

The Senate proceeded by ballot to the choice of a President, for the sole purpose of opening and counting the votes for President of the United States.

John Langdon, esq., was elected.

[After the votes had been counted and the members of the House had withdrawn]

The Senate then proceeded by ballot to the choice of a President of their body *pro tempore*.

John Langdon, esq., was duly elected.

WILLIAM R. KING.

2d sess. 26th Cong., J. of S., 250.] MARCH 4, 1841.

In the absence of the Vice-President, Mr. Bayard submitted the following motion; which was considered by unanimous consent, and agreed to:

Resolved, That the oath of office be administered to the Hon. William R. King, as Senator-elect from the State of Alabama, by the Hon. Henry Clay, and that he be, and is hereby, chosen President *pro tempore* of the Senate.

Whereupon

The oath prescribed by law was administered by the Hon. Henry Clay to the Hon. William R. King; and Mr. King resumed the chair.

[At the special session of the Senate, March 5, 1849, David R. Atchison was sworn and elected in the same way (2d sess. 30th Cong., J. of S., 352), and March 4, 1863, Solomon Foot became President *pro tempore* in a like manner (2d sess., 37th Cong., J. of S., 448). March 5, 1877, this precedent was followed a second time; the oath was administered to Thomas W. Ferry, Senator-elect from Michigan, and he took the chair (2d sess., 44th Cong., J. of S., 437).]

THOMAS F. BAYARD AND DAVID DAVIS.

1st sess. 47th Cong., J. of S., 7.] OCTOBER 10, 1881.

Mr. Isham G. Harris, of Tennessee, called the Senate to order.

Mr. Pendleton submitted the following resolution for consideration:

Resolved, That Thomas F. Bayard, a Senator from the State of Delaware, is hereby chosen President *pro tempore* of the Senate.

Mr. Edmunds presented the credentials of Nelson W. Aldrich, elected a Senator by the legislature of Rhode Island to fill the vacancy occasioned by the death of the Hon. Ambrose E. Burnside; which were read.

Mr. Edmunds presented the credentials of Elbridge G. Lapham, elected a Senator by the legislature of New York to fill the vacancy occasioned by the resignation of the Hon. Roscoe Conkling; which were read.

Mr. Edmunds presented the credentials of Warner Miller, elected a Senator by the legislature of New York to fill the vacancy occasioned by the resignation of the Hon. Thomas C. Platt; which were read.

On motion by Mr. Edmunds, that the oath prescribed by law be now administered to the Senators-elect named in the foregoing credentials, by the honorable Henry B. Anthony,

On motion by Mr. Pendleton to lay the motion on the table,

It was determined in the affirmative, { Yeas ..... 36 / Nays 34

On motion by Mr. Edmunds,

The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].

So the motion was agreed to.

The Senate proceeded, by unanimous consent, to consider the resolution this day submitted by Mr. Pendleton, providing for the election of a President *pro tempore* of the Senate.

On motion by Mr. Edmunds to amend the resolution as follows, viz: Strike out all after the word "Resolved," and insert the following:

That the credentials of Messrs. Warner Miller and Elbridge G. Lapham, Senators elect from the State of New York, and of Nelson W. Aldrich, a Senator from the State of Rhode Island and Providence Plantations, elected to fill the vacancy caused by the death of the late Senator Ambrose E. Burnside, having been read, be placed on the files of the Senate, and that the oaths prescribed by the Constitution and laws be administered to said Senators by Mr. Henry B. Anthony, the senior Senator in service;

After debate,

It was determined in the negative, { Yeas ..... 33 / Nays 34

On motion of Mr. Pendleton,

The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].

So the amendment was not agreed to.

On motion by Mr. Edmunds to amend the resolution by adding at the end thereof the words *for this day;*

After debate,

It was determined in the negative, { Yeas ..... 33 / Nays 34

On motion by Mr. Beck,

The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].

So the amendment was not agreed to.

On motion by Mr. Edmunds to amend the resolution as follows, viz: Strike out the words "Thomas F. Bayard, a Senator from the State of Delaware," and in lieu thereof insert the words *Henry B. Anthony, a Senator from the State of Rhode Island,*

It was determined in the negative, { Yeas ..... 32 / Nays 34

On motion by Mr. Edmunds,
The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].
So the amendment was not agreed to.
On the question to agree to the resolution,
It was determined in the affirmative, { Yeas ..... 34 / Nays 32
On motion by Mr. Edmunds,
The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].
So the resolution was agreed to.

1st sess. 47th Cong., J. of S., 9.] OCTOBER 10, 1881.
On motion by Mr. Edmunds, that the oath prescribed by law be now administered to Nelson W. Aldrich, Senator-elect from the State of Rhode Island;
Pending which,
On motion by Mr. Pendleton, at 2 o'clock and 50 minutes p. m., that the Senate adjourn until to-morrow at 12 o'clock m.,
It was determined in the affirmative, { Yeas ..... 35 / Nays 34

Ib., 10.] OCTOBER 11, 1881.
On motion by Mr. Edmunds,
The Senate resumed the consideration of the motion yesterday submitted by him that the oath prescribed by law be now administered to Nelson W. Aldrich, Senator-elect from the State of Rhode Island; and
The motion was agreed to.
Mr. Aldrich appeared, and the oath prescribed by law having been administered to him by the President *pro tempore*, he took his seat in the Senate.
On motion by Mr. Edmunds that the oath prescribed by law be now administered to Elbridge G. Lapham and Warner Miller, Senators-elect from the State of New York;
Pending which,
Mr. McPherson presented a memorial of certain members of the legislature of New York, remonstrating against the admission of Mr. Lapham and Mr. Miller to seats in the Senate until certain allegations affecting their elections have been investigated.
Ordered, That it lie on the table.
The question recurring upon the motion of Mr. Edmunds that the oath prescribed by law be now administered to the Senators-elect from the State of New York,
It was determined in the affirmative.
Mr. Lapham and Mr. Miller then appeared, and the oath prescribed by law having been administered to them by the President *pro tempore*, they took their seats in the Senate.

Ib., 14.] OCTOBER 13, 1881.
Mr. Logan submitted the following resolution for consideration:
Resolved, That David Davis, a Senator from the State of Illinois, is hereby chosen President *pro tempore* of the Senate.
On motion by Mr. Sherman,
The Senate proceeded to the consideration of executive business; and
After the consideration of executive business the doors were opened.
The Senate proceeded, by unanimous consent, to consider the resolution this day submitted by Mr. Logan, providing for the election of a President *pro tempore* of the Senate.
After debate,
On the question to agree to the resolution,
It was determined in the affirmative, { Yeas ..... 36 / Nays 34
On motion by Mr. Butler,
The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].
So it was
Resolved, That David Davis, a Senator from the State of Illinois, is hereby chosen President *pro tempore* of the Senate.
Thereupon,
Mr. Davis took the chair and addressed the Senate:
[The remarks are printed at p. 521 of the Journal. They are omitted here as not bearing on the subject.]

JOHN J. INGALLS.

2d sess. 50th Cong., J. of S., 563.] THURSDAY, *March 7, 1889.*

The Secretary called the Senate to order and read the following letter:

VICE-PRESIDENT'S CHAMBER,
Washington, March 6, 1889.

DEAR SIR: Please state to the Senate that I shall be absent from its session tomorrow.

Respectfully, yours,

LEVI P. MORTON.

Hon. ANSON G. MCCOOK,
Secretary United States Senate.

Whereupon
Mr. Sherman submitted the following resolution:
Resolved, That, in the absence of the Vice-President, Mr. John J. Ingalls be, and he is hereby, chosen President *pro tempore* of the Senate.
The Senate proceeded to consider the resolution; and
On motion by Mr. Harris to amend the same by striking out the name "John J. Ingalls" and in lieu thereof inserting *Daniel W. Voorhees*,

It was determined in the negative, { Yeas ..... 27 / Nays 29

On motion by Mr. Harris,
The yeas and nays being desired by one-fifth of the Senators present [the names are omitted].
So the amendment was not agreed to.
The question recurring on agreeing to the resolution,
It was determined in the affirmative.
On motion by Mr. Hoar and by unanimous consent,
Ordered, That the oath of office be administered to the President *pro tempore* elect by Mr. John Sherman, a Senator from the State of Ohio.
The oath prescribed by law was accordingly administered to Mr. Ingalls, and he thereupon took the chair.

2d sess. 50th Cong., J. of S., 581.] APRIL 2, 1889.

The chair having been vacated by the Vice-President,
Mr. Edmunds submitted the following resolution:
Resolved, That in the absence of the Vice-President John J. Ingalls, a Senator from the State of Kansas, be, and he hereby is, chosen President *pro tempore*.
The Senate proceeded, by unanimous consent, to consider the resolution; and
The question on agreeing thereto having been put by the Secretary,
It was determined in the affirmative.
Whereupon,
The oath of office having been administered to Mr. Ingalls by the Secretary, he took the chair.
Subsequently,
On motion by Mr. Hoar, and by unanimous consent,
The oath of office was administered to Mr. Ingalls by Mr. John Sherman, a Senator from the State of Ohio.

TENURE OF OFFICE.

1 J. of S., 55.] AUGUST 7, 1789.

In the absence of the Vice-President, proceeded to elect a President *pro tempore;* and, the votes being collected, and counted, the Hon. John Langdon was unanimously appointed.

1 J. of S., 428.] APRIL 18, 1792.

The Vice-President being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and the Hon. Richard Henry Lee was duly elected.
Ordered, That the Secretary wait on the President of the United States and lay before him an attested copy of this proceeding.
Ordered, That the Secretary notify the House of Representatives of the election of a President *pro tempore*.

1 J. of S., 451.] NOVEMBER 5, 1792.

In the absence of the Vice-President, and also of the Hon. Richard Henry Lee, elected President *pro tempore* at a former session, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and the Hon. John Langdon was duly elected.

1 J. of S., 499.] MARCH 1, 1793.

The Vice-President being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and the Hon. John Langdon was duly elected.

2 J. of S., 193.] DECEMBER 7, 1795.

The Vice-President being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and the Hon. Henry Tazewell was duly elected.

2 J. of S., 250.] MAY 6, 1796.

The Vice-President being absent, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and the Hon. Samuel Livermore was duly elected.

[November 21, 1800, Hon. John E. Howard was chosen President *pro tempore* (3 J. of S., 106), and February 28, 1801, Hon. James Hillhouse was elected, the Vice-President having retired to give the usual opportunity of electing a President *pro tempore*. December 14, 1802, Stephen R. Bradley was elected President *protempore*, after several ballots (2d sess. 7th Cong., J. of S., 8). February 25, 1803, the Vice-President being ill and unable to attend, Mr. Bradley was again elected President *pro tempore*, receiving 18 votes out of 21 (ib., 109).

1st. sess. 37th Cong., J. of S., 182.] AUGUST 5, 1861.

Mr. Collamer submitted the following resolution for consideration:

Resolved, That the President *pro tempore* of the Senate, elected in the absence of the Vice-President, holds his office, while a member of the Senate, until another is elected and executes the duties thereof whenever the Vice-President is absent.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

Pending debate thereon,

Mr. Foster rose to a question of privilege [credentials of Frederic P. Stanton, claiming to be a Senator from Kansas].

The question recurring on the resolution submitted by Mr. Collamer,

On motion by Mr. Fessenden,

Ordered, That the further consideration of the resolution be postponed to to-morrow.

[Cong. Globe, 1st sess. 37th Cong., 436.]

1st sess. 43d Cong., S. Mis. Doc. No. 101.]

TENURE OF OFFICE OF THE PRESIDENT OF THE SENATE PRO TEMPORE.

APRIL 30, 1874.—Ordered to be printed.

OFFICE SECRETARY OF THE SENATE, UNITED STATES,
Washington, D. C., April 23, 1874.

DEAR SIR: Knowing the interest which you have always taken in whatever may serve to illustrate the organization of the Senate, I place in your hands a collection of precedents showing the tenure of office of the President of the Senate *pro tempore*, the duties of which office you have yourself so often and so well administered.

I am, sir, with the highest respect, your obedient servant,

W. J. MCDONALD,
Chief Clerk, Senate United States.

Hon. HENRY B. ANTHONY,
United States Senator.

TENURE OF OFFICE OF THE PRESIDENT OF THE SENATE PRO TEMPORE.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of his office, the Constitution declares that the same shall devolve upon the Vice-President (Art. II, sec. 1, cl. 5), and there, so far as the designation *by name* of the officer who shall succeed to the office of Pres-

ident is concerned, it stops. But looking to the contingency of the death or inability of both President and Vice-President, it goes on in the same clause to confer upon the Congress the power to declare, in such an event, what officer shall stand the next in the succession. Accordingly, in the execution of this power, Congress passed an act, which was approved March 1st, 1792, "relative to the election of a President and Vice-President of the United States, and declarin[illegible] the officer who shall act as President in case of vacancies in the offices both of President and Vice-President." The ninth section of this act is all that relates to the question of the succession to the office of President, and is in the following words:

"That in case of removal, death, resignation, or inability, both of the President and Vice-President of the United States, the President of the Senate pro tempore, and, in case there shall be no President of the Senate, then the Speaker of the House of Representatives, for the time being, shall act as President of the United States until the disability be removed or a President shall be elected." (Stat., 1, p. 240.)

These provisions embrace all that relates to the succession to the office of President of the United States to be found either in the Constitution or in the laws, but in this connection it should be borne in mind that the two officers to whom the succession is limited by the act of 1792 are both required by the Constitution to be chosen, the first-named by the Senate and the other by the House of Representatives.

"The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States." (Art. I, sec. 3, cl. 5.)

"The House of Representatives shall choose their Speaker and other officers." (Art. I, sec. 2, cl. 5.)

The President of the Senate *pro tempore* being designated by the act of 1792 the officer next in the succession to the Presidency after the Vice-President, some inquiry into his tenure of office, so far as that can be ascertained from the practice of the Senate in choosing him, may not be out of place.

The first President *pro tempore* (the Hon. John Langdon, of New Hampshire) was chosen by the Senate immediately upon the appearance of a quorum (April 6, 1789) at its first meeting under the Constitution "for the sole purpose of opening and counting the votes for President of the United States." The office of President *pro tempore* was held by Mr. Langdon until the Vice-President elect, Mr. John Adams, was installed into office and took his seat in the Senate April 21, 1789, whereupon the office of President *pro tempore* ceased.

The custom of the Vice-President, the permanent presiding officer of the Senate, of vacating the chair immediately before the close of a session to enable the Senate to choose a President *pro tempore*, did not commence until after the passage of the act of March 1, 1792, which fact has a marked significance in this inquiry. It was to meet the contingency contemplated in the ninth section of that act that the practice began and has since continued. While the Senate is in actual session it has entire and absolute control over the office of President *pro tempore*—that is to say, in the choice of the incumbent; but should the contingency pointed out in the ninth section of the act arise, the law then takes hold of him and transfers him to another sphere of action, totally distinct from the office of President of the Senate *pro tempore*.

Mr. Jefferson, in his manual, says:

"In the Senate a President pro tempore is proposed and chosen by ballot. His office is understood to be determined on the Vice-President's appearing and taking the chair, or at the meeting of the Senate after the first recess."

That his office is determined on the Vice-President's appearing and taking the chair is sustained by the uniform and unbroken practice of the Senate as gathered from its record from its first session, 1789, down to the present time. But that it is also determined at the meeting of the Senate after the first recess is not only unsustained by equal authority, but, if a majority of instances make precedents, absolutely reversed by an overwhelming majority the other way. There are some few instances, it is true, to sustain Mr. Jefferson's theory in regard to the terminating of the office after the first recess, but they are insignificant in number as compared with those which establish the contrary. Indeed, he does not himself positively assert it, but merely that it is "understood" to be determined, etc.

But, however that may be, or whatever may have been the practice of the Senate in regard to the election of its President *pro tempore*, it is an office entirely within the control of the body, and its occupant, so long, at least, as he shall remain uninvested with any rights of office under the ninth section of the act of March 1, 1792, liable to be changed at the will and pleasure of the Senate.

Before the passage of the act of 1792 the President *pro tempore* was elected by the Senate, that the body, in the absence of the Vice-President, might not be without a presiding officer; but this lasted only during the first Congress. At the first session of the Second Congress was passed the act of 1892, the ninth section of which, in

placing in the line of succession to the Presidency an officer chosen by the Senate, gave to that officer all the value and importance due to the grave responsibilities involved in the discharge of duties which its occupant might, by a contingency however deplorable, nevertheless be called upon to exercise.

Although the President *pro tempore* has never yet been summoned to take upon him the office of President of the United States, and although the terrible contingency which would invest him with its high responsibilities and powers has never yet happened, yet that such a contingency might by bare possibility arise, the Constitution, in contemplation of it, invested Congress with power to provide against it; and the act of 1792, the ninth section of which makes such provision, was passed. The wisdom of this forecast has already three times in our history come near to its exemplification.

PRECEDENTS.

The first session of the First Congress assembled March 4, 1789. The Vice-President, Mr. John Adams, not having yet been installed into office, the Senate elected a President *pro tempore* (Mr. John Langdon, of New Hampshire), "for the sole purpose of opening and counting the votes for President of the United States." That business finished and the result declared, the Vice-President appeared and took the chair, and thereupon the office of President *pro tempore* ceased.

The second and third sessions of the Senate during this Congress were opened and closed by the Vice-President, Mr. Adams in person; consequently there was no President *pro tempore* during either of the ensuing recesses. But at the first session of the Second Congress the act of March 1, 1792, the ninth section of which placed the President *pro tempore* of the Senate in the succession to the office of President, was passed; and it was not until after the passage of that act that the Vice-President retired from the chair to enable the Senate to elect a President *pro tempore*, which custom has since prevailed in the Senate, the Hon. Richard Henry Lee, of Virginia, being the first upon whom that office was conferred after the passage of that act.

The following instances (marked A), taken from the Journal of the Senate, will show how far the theory of Mr. Jefferson, that the office of President *pro tempore* is "understood to be determined at the meeting of the Senate after the first recess," has been sustained. Those that follow (marked B) will show how far that theory has been reversed by the practice of the Senate.

The intervals of time between the "instances" in each statement, it will be understood, embrace those sessions of the Senate at which the Vice-President appeared and took the chair at the opening of the session, when the office of the President *pro tempore* would cease.

[The rest of the document is omitted, it is printed in full below at p. 176.]

1st sess. 44th Cong., J. of S., 63.] DECEMBER 17, 1875.

Mr. Edmunds submitted the following resolution; which was referred to the Committee on Privileges and Elections and ordered to be printed:

Whereas since the last session of the Senate the Vice-President of the United States has deceased; therefore

Resolved, That on the 7th day of January next, at 1 o'clock afternoon, the Senate will proceed to the election of a President *pro tempore*.

Ib., 67.] DECEMBER 20, 1875.

Mr. Edmunds submitted the following resolution for consideration:

Resolved, That Mr. Thomas W. Ferry, a Senator from the State of Michigan, be the President of the Senate until January 7, 1876, and until a fresh appointment shall be made.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

On motion by Mr. Bayard to amend the resolution by striking out "Mr. Thomas W. Ferry, a Senator from the State of Michigan," and inserting "Mr. Allen G. Thurman, a Senator from the State of Ohio";

It was determined in the negative, { Yeas ..... 21 / Nays 24

[The names are omitted.]

So the amendment was not agreed to.

On the question to agree to the resolution,

It was determined in the affirmative.

[Cong. Rec., 1st sess. 44th Cong., 249.]

Ib., 76.] JANUARY 6, 1876.

Mr. Morton, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Edmunds on the 17th of December last, that on the

7th of January instant, at 1 o'clock p. m., the Senate will proceed to the election of a President *pro tempore*, submitted a report (No. 3) thereon.

[Cong. Rec. 1st sess. 44th Cong., 273.]

Ib., 90.] JANUARY 10, 1876.

Mr. Morton, from the Committee on Privileges and Elections, submitted the following resolutions, to accompany report No. 3, submitted on the 6th instant:

Resolved, That the tenure of a President *pro tempore* of the Senate, elected at one session, does not expire at the meeting of Congress after the first recess, the Vice-President not having appeared to take the chair.

Resolved, That the death of the Vice-President does not have the effect to vacate the office of President *pro tempore* of the Senate.

Resolved, That the office of President *pro tempore* of the Senate is held at the pleasure of the Senate.

Resolved, That the honorable Thomas W. Ferry, the Senator from Michigan, who was elected President *pro tempore* of the Senate at the last session, is now President *pro tempore* by virtue of said election.

The Senate proceeded by unanimous consent to consider the said resolutions; and,

After debate,

A division of the question having been called for by Mr. Merrimon,

On the question to agree to the first of the said resolutions,

It was determined in the affirmative, { Yeas ..... 59 / Nays ..... None

[The names are here omitted.]

So the first resolution was unanimously agreed to.

On the question to agree to the second resolution,

It was determined in the affirmative, { Yeas ..... 62 / Nays ..... *None*

[The names are omitted.]

So the second resolution was unanimously agreed to.

On the question to agree to the third resolution,

After debate,

On motion by Mr. Thurman to postpone the said resolution indefinitely,

Pending debate,

On motion by Mr. Edmunds, at 2 o'clock and 45 minutes p. m.,

The Senate adjourned.

[Cong. Rec., 1st sess. 44th Cong., 311–316.]

Ib., 99.] JANUARY 12, 1876.

The Senate resumed the consideration of the resolutions submitted by Mr. Morton, from the Committee on Privileges and Elections, relative to the tenure of office of the President *pro tempore* of the Senate; and

The question being on the motion of Mr. Thurman to postpone indefinitely the further consideration of the third resolution;

After debate,

It was determined in the negative, { Yeas ..... 18 / Nays 36

[The names are omitted.]

So the motion was not agreed to.

The question recurring on agreeing to the third resolution, as follows:

Resolved, That the office of President *pro tempore* of the Senate is held at the pleasure of the Senate.

On motion by Mr. Whyte to amend the resolution by adding thereto the following:

Until the happening of the contingency provided for in the ninth section of the act of Congress approved March 1, 1792, when he is authorized to act as President of the United States.

After debate,

It was determined in the negative, { Yeas ..... 18 / Nays 33

[The names are omitted.]

So the amendment was not agreed to.

On the question to agree to the resolution,

It was determined in the affirmative, { Yeas ..... 34 / Nays 15

[The names are omitted.]

So it was

Resolved, That the office of President *pro tempore* of the Senate is held at the pleasure of the Senate.

On the question to agree to the fourth resolution, as follows:

Resolved, That the Hon. Thomas W. Ferry, Senator from Michigan, who was elected President *pro tempore* of the Senate at the last session, is now the President *pro tempore* by virtue of said election.

Mr. Morton, with the consent of the Senate, withdrew the said resolution.

[Cong. Rec., 1st sess. 44th Cong., 360–373.]

1st sess. 44th Cong., S. Rep., 3.]

IN THE SENATE OF THE UNITED STATES.

JANUARY 6, 1876.—Ordered to be printed.

Mr. Morton, from the Committee on Privileges and Elections, submitted the following report:

The Committee on Privileges and Elections, to whom was referred the following resolution, to wit:

"Whereas, since the last session of the Senate, the Vice-President of the United States has deceased: Therefore,

"*Resolved*, That on the 7th day of January next, at 1 o'clock afternoon, the Senate will proceed to the election of a President *pro tempore*,"

beg leave to submit the following report:

The committee do not understand that they are called upon to report upon any question of propriety or expediency in proceeding to an election of a President *pro tempore* for the Senate on the day named in the resolution, but to inquire into the character and tenure of that officer. The subject of inquiry may be divided into four heads:

I. Is the President *pro tempore* of the Senate an officer of the Senate?

II. Does the tenure of a President *pro tempore* of the Senate who may have been elected at one session expire with the beginning of the next session, the Vice-President not having appeared to take the chair?

III. Does the death of the Vice-President after the election of a President *pro tempore* have the effect to vacate the office of President *pro tempore*, and require the Senate to proceed to a new election?

IV. Has the President *pro tempore* a vested right to the office until the Vice-President reappears and takes the chair (unless in the meantime his term of office as Senator has expired), or has the Senate the right to remove him and to elect another at its pleasure?

The Vice-president, who is made the presiding officer of the Senate by the Constitution, can not be regarded as an officer of the Senate; he is not chosen by the Senate, and can not be removed by the Senate, except upon articles of impeachment preferred by the House of Representatives, and can not resign his office to the Senate.

The 5th clause of section 3 of the 1st article of the Constitution provides that—

"The Senate shall choose their officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States."

Who the other officers of the Senate may be, or how many, is left entirely to the judgment of the Senate. The first officers of the Senate chosen were Secretary and a doorkeeper, and the latter's designation changed March 3, 1805, to sergeant-at-arms and doorkeeper.

To these were added, subsequently, the offices of chaplain, assistant doorkeeper, chief clerk, and a principal executive clerk. These at present constitute all the "other officers" who are chosen directly by the Senate, and hold their offices entirely at its will.

For a period of twenty-nine years, from January, 1824, to March, 1853, the Secretary, Sergeant-at-Arms, and the assistant doorkeeper were elected biennially. This custom ceased in March, 1853, and these officers since then have held during the pleasure of the Senate, which may be signified at any time by the appointment of others.

The President *pro tempore* of the Senate, being chosen by the Senate, must be regarded as one of its officers. This would be implied by the language of the Constitution above quoted, but results necessarily from the nature and power of the position.

The 5th clause of the 2d section of the 1st article of the Constitution provides as follows in regard to the House of Representatives:

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

This language designates the Speaker as an officer of the House, and, as he is chosen by the House, he sustains the same relation to that body which the President *pro tempore* does to the Senate. We do not think it necessary to extend the argument to prove that the President *pro tempore* is an officer of the Senate.

We come now to the second question, viz: "Does the tenure of a President *pro tempore* of the Senate, who may have been elected at one session, expire with the beginning of the next session, the Vice-President not having appeared to take the chair?"

The office of President *pro tempore* of the Senate must expire whenever the absence of the Vice-President is at an end and he appears in the Senate to preside. The power to elect a President *pro tempore* in the absence of the Vice-President must include his absence on account of death as well as absence from any cause while living.

In the act of Congress approved March 1, 1792, "relative to the election of the President and Vice-President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice-President," we find the following provision, which embraces all that relates to the succession to the office of President, to be found in the laws on the subject:

"That in case of removal, death, resignation, or inability, both of the President and Vice-President of the United States, the President of the Senate *pro tempore*, and in case there shall be no President of the Senate, then the Speaker of the House of Representatives, for the time being, shall act as President of the United States until the disability be removed or a President shall be elected." (Stat., I, 240.)

When the First Congress met, on the 6th of April, 1789, the Hon. John Langdon, of New Hampshire, was chosen President *pro tempore* of the Senate, immediately upon the appearance of a quorum, "for the sole purpose of opening and counting the votes for President of the United States;" and he held the office until the Vice-President-elect, Mr. John Adams, was installed into office and took his seat in the Senate, April 21, 1789, when the office of President *pro tempore* ceased.

The custom of the Vice-President to vacate the chair before the close of a session, to enable the Senate to choose a President *pro tempore*, did not begin until after the passage of the act of March 1, 1792, and was obviously instituted to meet the contingency contemplated in the section of the act above quoted, by providing a President *pro tempore* of the Senate during the vacations of that body. The Senate, in contemplation of law, is a perpetual body, and the officers of the Senate are as much its officers during its vacations as during its sessions.

Mr. Jefferson, in his Manual, says:

"In the Senate a President *pro tempore* is proposed and chosen by ballot. His office is understood to be determined on the Vice-President's appearing and taking the chair, or at the meeting of the Senate after the first recess."

The unbroken and uniform practice of the Senate, from its first session down to the present time, sustains the position that the office of President *pro tempore* of the Senate is determined on the Vice-President's appearing and taking the chair. Mr. Jefferson says in the above rule that it is understood to be determined also "at a meeting of the Senate after the first recess." He does not state this as an established rule, but as an understanding, and it becomes important to learn what has been the usage of the Senate upon the subject.

The committee are under obligation to Mr. McDonald, the Chief Clerk of the Senate, for his researches, and shall quote freely from the valuable paper he has prepared upon the tenure of office of the President *pro tempore*.

To sustain the understanding given by Mr. Jefferson in his rule there are four precedents, which we quote from the paper of Mr. McDonald:

"Instances in which the office of President pro tempore ceased 'at the meeting of the Senate after the first recess.'"

"I. First session of the Fourth Congress, commenced December 7, 1795. The Vice-President, Mr. John Adams, being absent, the Senate proceeded to the election of a President *pro tempore*, and the Hon. Henry Tazewell, of Virginia, was duly elected.

"In this instance Mr. Tazewell had been chosen President *pro tempore* at the last session, was present at the opening of the Senate, but did not resume the chair under his appointment at the last session.

"II. Second session of the Sixth Congress, commenced November 17, 1800. The Vice-President, Mr. Jefferson, being absent, and a quorum not appearing until the 21st of November, on that day, the Vice-President being still absent, the Senate elected the Hon. John E. Howard, of Maryland, President *pro tempore*.

"In this instance the Hon. Uriah Tracy, who had been elected President *pro tempore* at the last session, was present at the first meeting of the Senate after the recess, but did not resume the chair.

"III. Second session of the Seventh Congress, commenced December 6, 1802. The Vice-President, Aaron Burr, being absent, and a quorum not appearing until the 13th of December, on that day, the Vice-President being still absent, the Senate proceeded to ballot for a President *pro tempore*, but came to no choice. The next day the balloting was resumed, and the Hon. Stephen R. Bradley was elected.

"Here, again, the President *pro tempore*, Abraham Baldwin, chosen at the last session, was present at the opening of the session and during the balloting, but did not preside.

"IV. First session of the Eighth Congress, commenced October 17, 1803. The Vice-President, Aaron Burr, being absent, the Senate elected the Hon. John Brown President *pro tempore*.

"In this instance Mr. Stephen R. Bradley, chosen President *pro tempore* at the previous session, was present on the first day of the session, but did not preside."

We also quote from Mr. McDonald's paper the instances in which the office of President *pro tempore* was not determined by the expiration of the recess, but continued until the appearance of the Vice-President, or the election of another person:

"I. The second session of the Second Congress met November 5, 1792, and in the Journal of that day is the following entry:

"'In the absence of the Vice-President, and also of the Hon. Richard Henry Lee, elected President *pro tempore* at a former session, the Senate proceeded to the choice of a President *pro tempore*, as the Constitution provides, and the Hon. John Langdon was duly elected.'

"Here reference is made to the absence of the President *pro tempore*, who had been chosen at the previous session, as well as to that of the Vice-President; the inference from which would seem to be that had Mr. Lee been present, he would, in virtue of his office of President *pro tempore*, have taken the chair.

"II. Second session of the Third Congress, commenced November 3, 1794. The Vice-President, Mr. Adams, being absent, the Hon. Ralph Izard, of South Carolina, chosen President *pro tempore* at the last session, resumed the chair.

"III. On the 4th of March, 1809, immediately after the close of the second session of the Tenth Congress, the Senate assembled at a special or called session; and the Vice-President, George Clinton, being absent, the Hon. John Milledge, chosen President *pro tempore* at the last session, took the chair.

"*IV.* Second session of the Eleventh Congress, commenced November 27, 1809. A quorum not being present, the Senate adjourned. The next day the Vice-President, George Clinton, being absent, the Hon. Andrew Gregg, chosen President *pro tempore* at the previous session, resumed the chair.

"V. Third session of the Eleventh Congress, commenced December 3, 1810. The Vice-President, George Clinton, being absent, the Hon. John Gaillard, chosen President *pro tempore* at the last session, resumed the chair.

"VI. First session of the Twelfth Congress, commenced November 4, 1811. On the 24th of March, 1812, the Vice-President, Mr. Clinton, being absent, the Senate chose the Hon. William H. Crawford President *pro tempore*.

"On the 20th of April, 1812, the death of the Vice-President was announced to the Senate; but this did not affect the appointment of Mr. Crawford as President *pro tempore*, and he continued to act.

"VII. Second session of the Twelfth Congress, commenced November 2, 1812. A quorum not being present on that day, the Senate adjourned. The next day, November 3, Mr. Crawford, who had been chosen President *pro tempore* at the previous session, resumed the chair.

"VIII. Third session of the Thirteenth Congress, commenced September 19, 1814. The Vice-President, Elbridge Gerry, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the previous session, resumed the chair.

"On the 23d of November, 1814, the death of the Vice-President was announced to the Senate; and on the 25th of November the Senate proceeded to the election of a President *pro tempore*, when Mr. Gaillard (still holding) was reëlected.

"IX. First session of the Fourteenth Congress, commenced December 4, 1815. There being no Vice-President, the President *pro tempore*, Mr. Gaillard, elected at the last session, resumed the chair.

"X. Second session of the Fourteenth Congress, commenced December 2, 1816. Mr. Gaillard, elected President *pro tempore* on the death of Vice-President Gerry, resumed the chair; also at the special session of the Senate, which assembled March 4, 1817.

"XI. First session of the Fifteenth Congress, commenced December 1, 1817. The Vice-President, Daniel D. Tompkins, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* upon the death of Vice-President Gerry, resumed the chair.

"On the 19th of March, 1818, the Vice-President, Mr. Tompkins, took the chair; and on the 31st of March, having retired, the Senate again chose Mr. Gaillard President *pro tempore*.

"XII. Second session of the Fifteenth Congress, commenced November 16, 1818. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been elected President *pro tempore* at the last session, resumed the chair.

"XIII. First session of the Sixteenth Congress, commenced December 6, 1819. The Vice-President, Mr. Tompkins, being absent, the Hon. James Barbour, who had been elected President *pro tempore* at the last session, resumed the chair.

"XIV. Second session of the Sixteenth Congress, commenced November 13, 1820. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been again chosen President *pro tempore* at the last session, resumed the chair.

"XV. First session of the Seventeenth Congress, commenced December 3, 1821. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the session before the last, January 25, 1820, resumed the chair.

"On the 28th December, 1821, the Vice-President resumed the chair. On the 1st of February, 1822, he informed the Senate by letter that the condition of his health rendered it necessary that he should return to his family. Whereupon the Senate again chose the Hon. John Gaillard President *pro tempore*.

"XVI. Second session of the Seventeenth Congress, commenced December 2, 1822. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the last session, resumed the chair.

"The next day, December 3, the Vice-President attended and resumed the chair; and on the 19th of February, 1823, being again absent, the Senate again elected Mr. Gaillard President *pro tempore*.

"XVII. First session of Eighteenth Congress, commenced December 1, 1823. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the last session, resumed the chair.

"On the 21st of January, 1824, the Vice-President resumed the chair, and on the 21st of May retired, when the Senate again elected Hon. John Gaillard President *pro tempore*.

"XVIII. Second session of the Eighteenth Congress, commenced December 6, 1824. The Vice-President, Mr. Tompkins, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XIX. Second session of the Twentieth Congress, commenced December 1, 1828. The Vice-President, Mr. Calhoun, being absent, the Hon. Samuel Smith, of Maryland, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XX. First session of the Twenty-first Congress, commenced December 7, 1829. The Vice-President, Mr. Calhoun, being absent, the Hon. Samuel Smith, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XXI. Second session of the Twenty-first Congress, commenced December 6, 1830. The Vice-President, Mr. Calhoun, being absent, the Hon. Samuel Smith, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XXII. First session of the Twenty-second Congress, commenced December 6, 1831. The Vice-President, Mr. Calhoun, being absent, the Hon. Samuel Smith, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XXIII. Second session of the Twenty-second Congress, commenced December 4, 1832. The Vice-President, Mr. Calhoun, being absent, and also Mr. Tazewell, who had been chosen President *pro tempore* at the last session, the Senate proceeded to the election of a President *pro tempore*, and the Hon. Hugh Lawson White, of Tennessee, was chosen.

"Mr. Calhoun resigned the office of Vice-President after Mr. White's election as President *pro tempore*, but Mr. White continued to act without reappointment.

"XXIV. First session of the Twenty-third Congress, commenced December 2, 1833. There being no Vice-President, the Hon. Hugh Lawson White, who was chosen President *pro tempore* upon the resignation of Mr. Calhoun, resumed the chair.

"On the 16th of December, 1833, the Vice-President, Martin Van Buren, appeared and took the chair. Mr. Van Buren was present at the commencement of each session of the Senate until the end of his term of office, which was on the 3d of March, 1837.

"At the special session of the Senate, which met on the 4th of March, 1837, Richard M. Johnson, who succeeded Mr. Van Buren as Vice-President, took the chair.

"Richard M. Johnson was present at the opening of the Senate at each session until the third session of the Twenty-fifth Congress.

"XXV. Third session of the Twenty-fifth Congress, commenced December 3, 1838. The Vice-President, Richard M. Johnson, being absent, the Hon. William R. King, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XXVI. First session of the Twenty-sixth Congress, commenced December 2, 1839. The Vice-President, R. M. Johnson, being absent, the Hon. William R. King, who had been elected by the Senate President *pro tempore* at the last session, resumed the chair.

"XXVII. Second session of the Twenty-sixth Congress, commenced December 7,

1840. The Vice-President and the President *pro tempore*, chosen at the last session, being both absent, and a quorum not being present, the Senate adjourned.

"The next day, December 8, a quorum being present, and the Vice-President being still absent, the Hon. William R. King, who had been chosen President *pro tempore* at the previous session, resumed the chair.

"XXVIII. At a special session of the Senate which met on the 4th of March, 1841 the Vice-President elect, John Tyler, not yet having taken the oath of office, and Mr. King, the President *pro tempore*, chosen at the last session, not being qualified to act by reason of the expiration of his Senatorial term, the Senate, by resolution, directed the oath of office to be administered to him (having been reëlected to the Senate) by a Senator, and that he be declared President *pro tempore*.

"XXIX. First session of the Twenty-seventh Congress, commenced May 31, 1841. The Vice-President, Mr. Tyler, having become President by the death of Gen. Harrison in the recess, Mr. Southard, the President *pro tempore*, chosen by the Senate at the special session, resumed the chair.

"XXX. Second session of the Twenty-seventh Congress, commenced December 6, 184I. There being no Vice-President, Mr. Southard, who had been chosen President *pro tempore* at the special session, resumed the chair.

"On the 31st of May, 1842, Mr. Southard resigned his position as President *pro tempore*, and the Senate elected the Hon. Willie P. Mangum to that office.

"XXXI. During the third session of the Twenty-seventh Congress and the first and second sessions of the Twenty-eighth Congress Mr. Mangum continued uninterruptedly to discharge the duties of President *pro tempore* without reëlection; and also at the special session of March 4, 1845, until the appearance of the Vice-President, the Hon. Geo. M. Dallas.

"Mr. Dallas did not, as was customary, retire from the chair at this special session, but continued to occupy it until the final adjournment of the Senate. In consequence of this there was no President of the Senate *pro tempore* during the long recess that ensued.

"XXXII. Second session of the Thirtieth Congress, commenced December 4, 1848. The Vice-President, Mr. Dallas, being absent, the Hon. David R. Atchison, who had been chosen President *pro tempore* at the last session, resumed the chair.

"At the special session of the Senate which met March 5, 1849, the Vice-President elect, Mr. Fillmore, not having been sworn in, Mr. Atchison, who had been chosen President *pro tempore* at the last session, but whose Senatorial term expired with that session, was, under a resolution of the Senate, sworn in and declared to be the President *pro tempore*. And thereupon he resumed the chair and presided until the appearance of the Vice-President, who took the chair.

"XXXIII. First session of the Thirty-first Congress, commenced December 3, 1849. The Vice-President, Mr. Fillmore, resumed the chair.

"On the 10th of July, 1850, he informed the Senate that in consequence of the death of the President, Gen. Taylor, he would not again occupy the chair.

"On the 11th of July, 1850, the Vice-President having become President, the Senate chose the Hon. William R. King President *pro tempore*. Under this appointment Mr. King continued, without reëlection, to discharge the duties of President *pro tempore*, opening the proceedings of the Senate at four of its sessions, until the 20th of December, 1852, when he resigned and was succeeded by Hon. David R. Atchison in that office.

"XXXIV. First session of the Thirty-third Congress, commenced December 5, 1853. The Vice-President, William R. King, having died in the recess, Mr. Atchison, who had been chosen President *pro tempore* at the special session of the Senate, March 4, 1853, resumed the chair.

"XXXV. Second session of the Thirty-third Congress, commenced December 4, 1854. There being no Vice-President, and the President *pro tempore*, Mr. Atchison, being absent, the Senate elected the Hon. Lewis Cass President *pro tempore* "*for this day.*" The next day, December 5, 1854, the Senate elected the Hon. Jesse D. Bright President *pro tempore*.

"XXXVI. First session of the Thirty-fourth Congress, commenced December 3, 1855. There being no Vice-President, the Hon. Jesse D. Bright, who had been chosen President *pro tempore* at the last session, resumed the chair.

"XXXVII. Second session of the Thirty-fourth Congress, commenced August 21, 1856. There being no Vice-President, Mr. Bright resumed the chair.

"XXXVIII. Third session of the Thirty-fourth Congress, commenced December 1, 1856. There being no Vice-President, Mr. Bright resumed the chair.

"XXXIX. At the special session of the Senate which assembled March 4, 1857, the Senate passed a resolution directing the oath of office to be administered to Mr. Mason, and that he be declared President *pro tempore*.

"Mr. Mason had been chosen President *pro tempore* at the last session, but his Senatorial term having expired with that session, and he having been reëlected to the Senate, his reappointment as President *pro tempore* was thereby rendered necessary.

This last appointment was vacated by the appearance of the Vice-President, John C. Breckinridge.

"XL. First session of the Thirty-fifth Congress, commenced December 7, 1857. The Vice-President (Breckinridge) being absent, Mr. Rusk, who had been chosen President *pro tempore* at the last session, having died in the recess, the Senate elected Benjamin Fitzpatrick, of Alabama, President *pro tempore*. This appointment terminated on the appearance of the Vice-President during the session; but upon the retirement of the Vice-President at the close of the session he was again chosen President *pro tempore*.

"XLI. At a special session of the Senate, which met June 15, 1858, the Vice-President, Mr. Breckinridge, being absent, Mr. Fitzpatrick, President *pro tempore*, resumed the chair.

"XLII. Third session of the Thirty-seventh Congress, commenced December 1, 1862. The Vice-President, Mr. Hamlin, being absent, the Hon. Solomon Foot, who had been appointed President *pro tempore* at the previous session, resumed the chair.

"XLIII. At a special session of the Senate, which commenced March 4, 1863, the Vice-President, Mr. Hamlin, being absent, the Senate, by resolution, directed that the oath of office be administered to the Hon. Solomon Foot, who had been reëlected to the Senate, and that he be chosen President of the Senate *pro tempore*.

"Mr. Foot had been chosen President *pro tempore* at the last session, but the expiration of his Senatorial term with that session rendered his reappointment necessary.

"XLIV. Second session of the Thirty-eighth Congress, commenced December 5, 1864. The Vice-President, Mr. Hamlin, being absent, the Hon. Daniel Clark, who had been chosen President *pro tempore* at the previous session, resumed the chair.

"XLV. First session of the Thirty-ninth Congress, commenced December 5, 1865. The Vice-President, Andrew Johnson, having now become President by the death of Mr. Lincoln, the Hon. Lafayette S. Foster, who had been chosen President *pro tempore* at the special session of the Senate in March, 1865, resumed the chair.

"XLVI. Second session of the Thirty-ninth Congress, commenced December 3, 1866. Mr. Foster, under his appointment as President *pro tempore*, in March, 1865, resumed the chair.

"XLVII. First session of the Fortieth Congress, commenced March 4, 1867. The Senate at the last session having elected the Hon. Benjamin F. Wade President *pro tempore* in the place of Mr. Foster, whose Senatorial term of office expired with that session, Mr. Wade resumed the chair.

"Under this appointment Mr. Wade continued in the performance of the duties of President *pro tempore* during the two remaining sessions of the Fortieth Congress, with the last of which his own term of office as a Senator expired.

"XLVIII. At the special session of the Senate which met April 12, 1869, the Vice-President, Mr. Colfax, being absent, the Hon. Henry B. Anthony, who had been chosen President *pro tempore* at a previous session, resumed the chair.

"The Vice-President, Mr. Colfax, was present at the assembling of the Senate at each of its regular sessions during the Forty-first and Forty-second Congresses, but uniformly retired from the chair just before the close of each session to enable the Senate to choose a President *pro tempore*, and this office the Senate as uniformly conferred upon the Hon. Henry B. Anthony, who was President *pro tempore* during the recesses that intervened in those two Congresses, as well as repeatedly during each session, upon the temporary absence of the Vice-President.

"XLIX. At the special or called session of the Senate which assembled March 4, 1873, the Vice-President, Hon. Henry Wilson, being absent, the Senate chose the Hon. Matt. H. Carpenter, a Senator from the State of Wisconsin, President *pro tempore*. This appointment ceased upon the appearance of the Vice-President at the first session of the Forty-third Congress and his resuming the chair; but being forced by indisposition to retire from its duties, the Senate again chose Mr. Carpenter its President *pro tempore*, who is at present in the exercise of that office."

It thus appears that Mr. Jefferson's proposition that the office of President *pro tempore* of the Senate is determined at the meeting of the Senate after the first recess, is not only *not* sustained by the usuage of the Senate, but is overwhelmingly contradicted by it. The four instances referred to, sustaining Mr. Jefferson's theory, have been reversed by the unbroken usage of the Senate from 1803 down to the present time.

The committee, therefore, assume the rule to be well established that the President *pro tempore* of the Senate, chosen at the expiration of one session, does not cease to be such with the beginning of the next, but continues until the Vice-President appears and takes the chair, or until the President *pro tempore* shall himself fail to appear in the Senate and take the chair, and thus require another to be elected, or until the term of office as Senator of the President *pro tempore* shall have expired.

The third question is: Does the death of the Vice-President, after the election of a President *pro tempore*, have the effect to vacate the office of President *pro tempore* and require the Senate to proceed to a new election?

This question seems also to have been answered by the usage of the Senate. On the 24th of March, 1812, the Vice-President, Mr. Clinton, being absent, the Senate chose the Hon. William H. Crawford President *pro tempore*. On the 20th of April, 1812, the death of the Vice-President was announced to the Senate, but this did not affect the appointment of Mr. Crawford as President *pro tempore*, and he continued to act.

The third session of the Thirteenth Congress commenced September 19, 1814. The Vice-President, Elbridge Gerry, being absent, the Hon. John Gaillard, who had been chosen President *pro tempore* at the previous session resumed the chair.

On the 23d of November of the same year the death of the Vice-President was announced to the Senate, and on the 25th of November the Senate proceeded to the election of a President *pro tempore*, when Mr. Gaillard (still holding) was reëlected.

The second session of the Twenty-second Congress commenced December 4, 1832. The Vice-President, Mr. Calhoun, being absent, and also Mr. Tazewell, who had been chosen President *pro tempore* at the last session, the Senate proceeded to the election of a President *pro tempore*, and the Hon. Hugh Lawson White, of Tennessee, was chosen.

Mr. Calhoun resigned the office of Vice-President after Mr. White's election as President *pro tempore*, but Mr. White continued to act without reappointment.

The first session of the Twenty-seventh Congress commenced May 31, 1841. The Vice-President, Mr. Tyler, having become President by the death of General Harrison in the recess, Mr. Southard, the President *pro tempore*, chosen by the Senate at the special session, resumed the chair.

The first session of the Thirty-third Congress commenced December 5, 1853. The Vice-President, William R. King, having died in the recess, Mr. Atchison, who had been chosen President *pro tempore* at the special session of the Senate, March 4, 1853, resumed the chair.

The first session of the Thirty-ninth Congress commenced December 4, 1865. The Vice-President, Andrew Johnson, having become President by the death of Mr. Lincoln, the Hon. Lafayette S. Foster, who had been chosen President *pro tempore* at the special session of the Senate in March, 1865, resumed the chair.

It thus appears that the death of the Vice-President, his resignation, or his transfer to the office of President by the Constitution upon the death of the President has not, by the practice of the Senate, had the effect to vacate the office of President *pro tempore* and make a new election necessary.

The committee are of the opinion that the death of the Vice-President does not have the effect in any way to change the tenure of the office of the President *pro tempore*. It is true that, under the act of 1792, the President *pro tempore* is, upon the death of the Vice-President, placed in the line of immediate succession to the performance of the duties of President in case of the death, resignation, or inability of that officer; but, as yet, the duties of the President *pro tempore* are in no wise changed.

What would be the tenure of his office in case the death, resignation, or inability of the President placed him in the discharge of the duties of President, it is not now necessary to consider. Any opinion expressed upon that subject would be outside of the present inquiry.

The next question is this: A President *pro tempore* having been elected and being present in the Senate ready to take the chair, or being in the chair and the Vice-President not having appeared, is it competent for the Senate at any time to proceed to the election of a new President *pro tempore*? The committee are of opinion that it is; that the President *pro tempore* and the other officers of the Senate are at all times under the control of the Senate and may be changed at its pleasure. This is certainly established by usage as to the Secretary, Sergeant-at-Arms, and chief clerk of the Senate. Can there be any distinction made between the tenure of those officers and that of the President *pro tempore*? If the President *pro tempore* sustains the same relations to the Senate that the Speaker does to the House, should not the Senate have the same power to remove him which, it is admitted, the House has to remove the Speaker at any time? The President *pro tempore* being always a member of the body, loses none of his privileges as a Senator. He is called upon to vote upon every question, may call another to the chair and take part in the debates.

It has been argued that the constitutional provision that the Senate shall choose "a President *pro tempore* in the absence of the Vice-President," gives him a fixed term of office until the Vice-President reappears and takes the chair, and that during that period the Senate has no power to remove him and appoint another; that should the President *pro tempore* himself fail from any cause to appear in the Senate and take the chair, the Senate may elect another President *pro tempore*, who would fill the chair until the first President *pro tempore* reappears and resumes the chair, which he would do without reëlection.

From this position the committee wholly dissent. If the Constitution had no provision for the election of a President *pro tempore* to serve during the absence of

the Vice-President, that power would belong to the Senate by the general law and practice of parliamentary bodies. The Constitution certainly fixes no term for the President *pro tempore*, and thus leaves him upon the same footing with the presiding officers of other parliamentary bodies, who are elected by the bodies themselves.

Mr. Jefferson, in his Manual, lays it down that a Speaker may be removed at the will of the House, and Cushing, in his Treatise upon the Law and Practice of Legislative Assemblies, section 297, page 115, says:

"It is essential, also, to the satisfactory discharge of the duties of a presiding officer, that he should possess the confidence of the body over which he presides, in the highest practicable degree. It is apparently for the purpose of securing this necessary confidence that the presiding officer is required to be chosen by the assembly itself, and by an absolute majority of votes; that he is removable by the assembly at its pleasure; and that he is excluded from all participation in the proceedings as a member. Each of these particulars requires to be briefly considered."

Again, in section 299, page 117, he says:

"The presiding officer, being freely elected by the members, by reason of the confidence which they have in him, is removably by them, at their pleasure, in the same manner, whenever he becomes permanently unable, by reason of sickness, or otherwise, to discharge the duties of his place, and does not resign his office; or whenever he has in any manner, or for any cause, forfeited or lost the confidence upon the strength of which he was elected."

The idea that the President *pro tempore* has a fixed term until the Vice-President reappears and takes the chair, and that the Senate can not remove him and appoint another at will, seems not to have been recognized or suggested by any action which the Senate have ever taken upon the subject.

On the 9th of June, 1856, Jesse D. Bright was President of the Senate *pro tempore* (the Vice-President, William R. King, being dead), and addressed the following note to Hon. Charles E. Stuart, a Senator from Michigan:

"SIR: Do me the favor to take the chair to-day.

"Yours truly,

J. D. BRIGHT."

Mr. Stuart appeared in the Senate, took the chair, and called the Senate to order. The power of Mr. Bright, as President *pro tempore*, to depute Mr. Stuart to take the chair and preside over the Senate was denied by several Senators, whereupon Mr. Stuart was, by resolution, elected President *pro tempore* of the Senate. Afterward, on the 11th of June, Mr. Stuart resigned his office as President *pro tempore*, and, on motion, Jesse D. Bright was reëlected President *pro tempore*. The idea that Mr. Bright continued to hold his office as President *pro tempore* by virtue of his first election was not suggested by anybody.

In conclusion the opinion of the committee may be thus summed up—

1. The tenure of a President *pro tempore* does not expire at the meeting of Congress after the first recess, the Vice-President not having appeared to take the chair.
2. That the death of the Vice-President does not have the effect to vacate the office of President *pro tempore*.
3. That the office of President *pro tempore* is held at the pleasure of the Senate.

1st sess. 48th Cong., J. of S., 83.] DECEMBER 13, 1883.

Mr. Edmunds submitted the following resolution for consideration:

Resolved, That the Senate now proceed to elect a President *pro tempore* of the Senate.

[Cong. Rec., 1st sess. 48th Cong., 140. Debate on power of substitution for President *pro tempore*.]

1st sess. 48th Cong., J. of S., 166.] JANUARY 14, 1884.

On motion by Mr. Sherman,

The Senate proceeded to consider the resolution submitted by Mr. Edmunds December 13, 1883, that the Senate proceed to elect a President *pro tempore;* and

The resolution was agreed to.

Mr. Sherman then submitted the following resolution:

Resolved, That Henry B. Anthony, a Senator from the State of Rhode Island, is hereby chosen President *pro tempore* of the Senate.

The Senate proceeded to consider the resolution; and

On motion by Mr. Pendlton to amend the resolution by striking out the words 'Henry B. Anthony, a Senator from the State of Rhode Island," and inserting in lieu thereof the words *Thomas F. Bayard, a Senator from the State of Delaware,*

It was determined in the negative.
On the question to agree to the resolution,
It was determined in the affirmative.
Thereupon
Mr. Anthony, having been invited to come forward and take the oath prescribed by law, rose in his place and declined the office to which he had been chosen.
On motion by Mr. Sherman that further proceedings under the resolution to proceed to elect a President *pro tempore* be suspended.
After debate
Mr. Sherman withdrew the motion and submitted the following resolution:
Resolved, That George F. Edmunds, a Senator from the State of Vermont, is hereby chosen President *pro tempore* of the Senate.
The Senate proceeded to consider the resolution; and
On motion by Mr. Bayard to amend the same by striking out the words "George F. Edmunds, a Senator from the State of Vermont," and in lieu thereof inserting the words *George H. Pendlton, a Senator from the State of Ohio*,

It was determined in the negative, { Yeas ..... 24 / Nays 32

On motion by Mr. Bayard,
The yeas and nays being desired by one-fifth of the Senators present,
[The names are omitted].
So the amendment was not agreed to.
On the question to agree to the resolution,
It was determined in the affirmative
Whereupon,
The oath prescribed by law was taken and subscribed by Mr. Edmunds before Mr. Mr. A. H. Garland, a Senator from the State of Arkansas.
[Cong. Rec., 1st sess. 48th Cong., 373.]

2d sess. 50th Cong., J. of S., 573.] MARCH 23, 1889.
The Vice President laid before the Senate the resolutions submitted by Mr. Butler on the 20th instant relative to the tenure of office of the President *pro tempore*.
When,
On motion by Mr. Allison,
The Senate proceeded to the consideration of executive business.

Ib., 574.] MARCH 27, 1889.
The Senate proceeded to consider the resolutions submitted by Mr. Butler on the 20th instant relative to the tenure of office of the President *pro tempore;* and
After debate,
On motion by Mr. Butler,
Ordered, That the resolutions be referred to the Committee on Privileges and Elections.
Mr. Evarts submitted the following resolution; which was referred to the Committee on Privileges and Elections:
Resolved, That it is competent for the Senate to elect a President *pro tempore*, who shall hold the office during the pleasure of the Senate and until another is elected, and shall execute the duties thereof when the Vice-President is absent.

Ib., 109.] FEBRUARY 10, 1890.
Mr. Evarts, from the Committee on Privileges and Elections, to whom was referred the following resolution, submitted by him March 27, 1889, reported it without amendment:
Resolved, That it is competent for the Senate to elect a President *pro tempore*, who shall hold the office during the pleasure of the Senate, and until another is elected, and shall execute the duties thereof when the Vice-President is absent.

Ib., 142.] FEBRUARY 26, 1890.
On motion by Mr. Evarts,
The Senate proceeded to consider the resolution reported by him on the 4th instant relative to the tenure of office of President *pro tempore;* and
After debate,
Ordered, That the further consideration of the resolution be postponed to to-morrow.

Ib., 165.] MARCH 12, 1890.

On motion by Mr. Evarts,

The Senate resumed the consideration of the resolution relative to the tenure of office of the President *pro tempore;* and having been amended on the motion of Mr. Turpie to read as follows:

Resolved, That it is competent for the Senate to elect a President *pro tempore,* who shall hold the office during the pleasure of the Senate and until another is elected, and shall execute the duties thereof during all future absences of the Vice-President until the Senate otherwise order,

After debate,

The resolution, as amended, was agreed to.

[Cong. Rec., 1st sess. 51st Cong., 2144–2150.]

1st sess. 51st Cong., J. of S., 108.] APRIL 3, 1890.

The Vice-President stated that he expected to be absent from the city for several days during next week, and that he made the announcement so that the Senate might take such action as should seem proper in view of the resolution passed March 12, with reference to the appointment of a President *pro tempore* of the Senate.

Mr. Cullom submitted the following resolution; which was considered and agreed to:

Resolved, That John J. Ingalls, a Senator from the State of Kansas, be, and he hereby is, elected the President *pro tempore* of the Senate, to hold office during the pleasure of the Senate and in accordance with the resolution of the Senate adopted on the 12th day of March, 1890, on the subject.

Whereupon,

Mr. Ingalls advanced to the desk, and the oath of office having been administered to him by the Presiding Officer, he took the chair as President *pro tempore.*

RESIGNATION.

SAMUEL T. SOUTHARD.

2d sess. 27th Cong., J. of S., 366.] MAY 31, 1842.

The Hon. Samuel L. Southard, President *pro tempore,* being absent, and a communication addressed by him to the Senate resigning the appointment of President *pro tempore* having been read by the Secretary,

The Senate proceeded to the election of a President *pro tempore* as the Constitution provides; and the Hon. Willie P. Mangum was duly elected.

JESSE D. BRIGHT.

1st sess. 34th Cong., J. of S., 374.] JUNE 11, 1856.

The Hon. Charles E. Stuart, having resigned the appointment as President *pro tempore,* submitted the following resolution:

Resolved, That the Hon. Jesse D. Bright be appointed the President *pro tempore.*

The Senate proceeded, by unanimous consent, to consider the resolution; and the resolution was agreed to.

Whereupon the Hon. Jesse D. Bright resumed the chair,

[Cong. Globe, 1st sess. 34th Cong., 1384.]

DAVID DAVIS.

2d sess. 47th Cong., J. of S., 427.] FEBRUARY 27, 1883.

The President *pro tempore* laid before the Senate the following letter:

VICE-PRESIDENT'S CHAMBER,
February 26, 1883.

To the Senate:

In view of possible exigencies that might affect the public service, I deem it proper to give notice of my intention to resign the office with which the Senate honored me, at noon on Saturday, the 3d of March, proximo.

DAVID DAVIS.

which was read.

Ib., 456.] MARCH 2, 1883.

Mr. Anthony submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Whereas, the President *pro tempore* has signified his purpose to resign the chair at 12 o'clock to-morrow; Therefore

Resolved, That at that hour the Senate will proceed to the election of a President *pro tempore*.

JOHN SHERMAN.

2d sess. 49th Cong., J. of S., 400.] FEBRUARY 22, 1887.

The President *pro tempore* laid before the Senate the following communication:

To the Senate of the United States:

SENATORS: My office as President *pro tempore* of the Senate will necessarily terminate on the 4th of March next with my present term as Senator. It will promote the convenience of the Senate and the public service to elect a Senator as President *pro tempore* whose term extends beyond that date, so that he may administer the oath of office to Senators-elect and aid in the organization. I therefore respectfully resign that position, to take effect at 1 o'clock p. m. on Saturday next, February 26.

Permit me in doing so to express my heartfelt thanks for the uniform courtesy and forbearance shown me while in the discharge of my duties as Presiding Officer by every member of the Senate.

Very truly yours,

JOHN SHERMAN.

[Cong. Rec., 2d sess. 49th Cong., 2057.]

Ib., 421.] FEBRUARY 24, 1887.

Mr. Edmunds submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That John J. Ingalls, a Senator from the State of Kansas, be, and he hereby is, chosen President *pro tempore* of the Senate, to take effect at 1 o'clock, afternoon, on the 26th instant, at which time the resignation of John Sherman, the present President *pro tempore* of the Senate, will take effect.

Ib., 436.] FEBRUARY 25, 1887.

The President *pro tempore* laid before the Senate the resolution yesterday submitted by Mr. Edmunds, as follows:

Resolved, That John J. Ingalls, a Senator from the State of Kansas, be, and he hereby is, chosen President *pro tempore* of the Senate, to take effect at 1 o'clock, afternoon, on the 26th instant, at which time the resignation of John Sherman, the present President *pro tempore* of the Senate, will take effect.

The Senate proceeded to consider the resolution; and

On motion by Mr. Cockrell to amend the same by striking out the words "John J. Ingalls, a Senator from the State of Kansas," and inserting in lieu thereof the words *Isham G. Harris, a Senator from the State of Tennessee*,

It was determined in the negative, { Yeas ..... 26 / Nays 39

On motion by Mr. Cockrell,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted,]

So the amendment was not agreed to.

On the question to agree to the resolution

It was determined in the affirmative.

Ib., 453.] FEBRUARY 26, 1887.

The hour designated in his letter of resignation of the 22d instant having arrived,

The President *pro tempore* addressed the Senate as follows:

Before administering the oath of office to his successor, the occupant of the chair desires again to return to his fellow Senators his grateful acknowledgements for their kind courtesy and forbearance in the past.

It is not a difficult duty to preside over the Senate of the United States. From the establishment of our Government to this time, the Senate has always been noted for its order, decorum, and dignity. We have but few rules, and they are simple and plain; but we have above all and higher than all that which pervades all our proceedings—the courtesy of the Senate, which enables us to dispose of nearly all the business of the Senate without question or without division. I trust that in

future, as in the past, this trait of the Senate of the United States will be preserved intact forever, and I invoke for my successor the same courtesy and forbearance you have extended to me. I now invite him to come forward and take the oath of office prescribed by law.

Mr. Ingalls thereupon, in pursuance of the resolution adopted yesterday, advanced to the desk of the President *pro tempore*, and the oath of office having been administered to him, on taking the chair he addressed the Senate as follows:

SENATORS: I must inevitably suffer disparagement in your estimation by contrast with the parliamentary learning and skill, the urbanity and accomplishments of my illustrious predecessor, but I shall strive to equal him in devotion to your service, and I shall endeavor, if that be possible, to excel him in grateful appreciation of the distinguished honor of your suffrages.

DESIGNATION OF SUBSTITUTE.

1st sess. 17th Cong., J. of S., 63.] JANUARY 10, 1822.

Mr. Gaillard submitted the following motion for consideration:

Amend the twenty-second rule for conducting business in the Senate by striking out all after the word "chair," and by inserting in lieu thereof the following:

"And the Vice-President, when indisposed at the seat of government, may name in writing a Senator who shall preside in his stead; in which case an entry thereof shall be made on the Journal of the Senate; but in no case shall any substitution extend beyond adjournment."

[Laid on the table January 11. (Ib., 66.)]

2d sess. 29th Cong., J. of S., 11.] JANUARY 11, 1847.

The Vice-President being absent,

The following communication was read:

Senator Atchison will oblige me by opening the Senate to-day, and by presiding therein until its adjournment.

G. M. DALLAS,
Vice-President of the United States and President of the Senate.

The following resolution was submitted by Mr. Crittenden and considered by unanimous consent:

Resolved, That the Hon. D. R. Atchison be, and he is hereby, appointed President *pro tempore* of the Senate during the absence of the Vice-President, and until he resumes his seat as the presiding officer of this body.

On motion by Mr. Sevier that the resolution lie on the table,

It was determined in the negative { Yeas ..... 20 / Nays 27

The resolution having been amended, on motion of Mr. Bagby, as follows:

Resolved, That the Senate proceed forthwith to the election of a President of the Senate *pro tempore;*

On the question to agree thereto,

It was determined in the affirmative.

The Senate accordingly proceeded to the election of a President *pro tempore*; and the honorable David R. Atchison was duly elected.

[Cong. Globe, 2d sess. 29th Cong., 161–164.]

1st. sess. 32d Cong., J. of S., 575.] JULY 8, 1852.

The following letter having been read at the request of Mr. Atkinson:

JULY 7, 1852.

MY DEAR SIR: Will you do me the favor to preside over the deliberations of the Senate to-morrow.

Very respectfully,

WILLIAM R. KING.

Hon. D. R. ATCHISON.

Mr. Atchison by unanimous consent took the chair.

[The next day Mr. Atchison again took the chair at Mr. King's request and by unanimous consent (Ib., 519). At the beginning of the following session Mr. King resigned on account of ill health and Hon. David R. Atchison was elected. (2d sess. 32d Cong., J. of S., 41.)]

CHARLES E. STUART.

1st sess. 34th Cong., J. of S., 369.] JUNE 2, 1856.

The following letter having been read at the request of Mr. Stuart:

MONDAY MORNING, *June 2, 1856.*

Hon. CHARLES E. STUART:

Do me the favor to take the chair to-day.

Yours, truly,
J. D. BRIGHT.

Mr. Stuart, by unanimous consent, took the chair.

Ib., 371.] JUNE 5, 1856.

The following letter was read at the request of Mr. Stuart:

Hon. CHARLES E. STUART:

Do me the favor to take the chair to-day.

Yours, truly,
J. D. BRIGHT.

Whereupon Mr. Stuart took the chair.

Ib., 371.] JUNE 9, 1856.

The following letter was read:

JUNE 9, 1856.

Hon. CHARLES E. STUART:

Do me the favor to take the chair to-day.

Yours, truly,
J. D. BRIGHT.

On motion by Mr. Butler and by unanimous consent,

Resolved, That the Hon. Charles E. Stuart be elected President *pro tempore*.

Whereupon Mr. Stuart took the chair.

[Cong. Globe, 1st sess. 34th Cong., 1368.]

JAMES M. MASON.

3d sess. 34th Cong., J. of S., 67.] JANUARY 5, 1857.

The following letter was read:

WASHINGTON, *January 5, 1857.*

SIR: Expecting to be absent on Monday next, the 5th instant, I request that you will officiate in the chair of the Senate on that day.

I have the honor to be, sir, your obedient servant,
J. D. BRIGHT,
President of the Senate pro tempore.

Hon. JAMES M. MASON,
Senator United States.

Whereupon

Mr. Mason, by unanimous consent, took the chair.

[The next day the President *pro tempore* being absent, Mr. Mason was chosen President *pro tempore* (ib., 71).

January 6, 1857, Mr. Cass made motion to elect President *pro tempore*, the President's power of substitution being doubted, and Mr. Mason was elected.

[Cong. Globe, 3d sess. 34th Cong., 220, 237.]

W. W. EATON.

WEDNESDAY, *June 25, 1879.*

The Chief Clerk called the Senate to order, and read the following letter:

WEDNESDAY, *June 25, 1879.*

SIR: I am prevented by illness from attending the Senate to-day. I therefore, in accordance with Rule IV, name Senator Eaton to perform the duties of the Chair until the adjournment to-day.

Very respectfully,
A. G. THURMAN.

The SECRETARY OF THE SENATE.

Whereupon

Mr. Eaton took the chair.

1st sess. 46th Cong., J. of S.] THURSDAY, *June 26, 1879.*

The Chief Clerk called the Senate to order, and read the following letter:

THURSDAY, *June 26, 1879.*

SIR: Being still too unwell to attend the Senate to-day, I name (under Rule 4) Senator Eaton to perform the duties of the Chair until the adjournment of the Senate to-day. I expect to be in attendance to-morrow.

Very respectfully,
A. G. THURMAN.

The SECRETARY OF THE SENATE.

Whereupon
Mr. Eaton took the chair.

JOHN J. INGALLS.

1st sess. 47th Cong., J. of S., 778.] JUNE 2, 1882.

The Acting Secretary called the Senate to order and read the following letter:

VICE-PRESIDENT'S ROOM,
June 2, 1882.

SIR: As I shall be absent at the opening of the session of the Senate this morning, under the provisions of Rule IV, I name the Hon. John J. Ingalls, a Senator from the State of Kansas, to perform the duties of the Chair until the adjournment to-day.

DAVID DAVIS,
President pro tempore.

The ACTING SECRETARY OF THE SENATE.

An objection having been raised to the power of the President *pro tempore* to designate such substitution,

On motion by Mr. Hoar, that, by unanimous consent, the Hon. John J. Ingalls be declared Presiding Officer for the day,

After debate,

Mr. Garland submitted the following resolution in lieu of the motion submitted by Mr. Hoar:

Resolved, That the designation of Hon. J. J. Ingalls by the President *pro tempore* of the Senate to preside over the Senate for this day be affirmed and approved by the Senate.

Pending debate,

On motion by Mr. Sherman, at 1 o'clock and 12 minutes p. m.,

The Senate adjourned until Monday next.

[Cong. Rec., 1st sess. 47th Cong., 4448–4454.]

Cong. Rec., 1st sess. 47th Cong. 4506.] JUNE 5, 1882.

The President *pro tempore* resumed the chair and addressed the Senate as follows:

SENATORS: On Friday last, being suddenly called away from the city, I named Hon. John J. Ingalls to perform the duties of the chair until the adjournment that day, under the provisions of Rule IV of the Senate.

Before taking that step the recent precedents were consulted, and the exact form of a letter addressed by Hon. A. G. Thurman, when President *pro tempore* of the Senate, to Hon. W. W. Eaton, asking him to preside for the day on several occasions, was adopted because no dissent had been expressed in the Senate.

Since this precedent is regarded as doubtful authority, and the Chair desires to guide his action by the judgment of the Senate, he would feel obliged by a decision that would relieve this important question of its obvious embarrassments.

Whereupon

Mr. Anthony submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Rules be instructed to inquire into the authority of the Presiding Officer, being absent from the Senate, to designate a Senator to take the chair, and if, in its opinion, he has not such authority, then to further inquire into the expediency of conferring it upon him.

1st sess. 47th Cong., J. of S., 842.] JUNE 19, 1882.

Mr. Frye, from the Committee on Rules, who were instructed by a resolution of the Senate of the 5th instant to inquire into the authority of the Presiding Officer, being absent from the Senate, to designate a Senator to take the chair, reported the following resolution for consideration:

Resolved, That Rule 4 be amended so as to read as follows:

On the absence of the Vice-President the Senate shall choose a President *pro tem-*

pore, who, when temporarily absent, may designate, in writing, a Senator to perform the duties of the Chair for the day, and, during such temporary absence, until the Senate shall otherwise order.

1st sess. 47th Cong., J. of S., 869.] JUNE 23, 1882.

On motion by Mr. Frye,

The Senate proceeded to consider the resolution reported by him from the Committee on Rules on the 19th instant, to amend Rule 4 of the Senate; and having been amended on the motion of Mr. Ferry,

After debate,

On motion by Mr. Ferry,

Ordered, That the said resolution be recommitted to the Committee on Rules.

[Cong. Rec. 1st sess. 47th Cong. 5259–5265.]

GEORGE F. HOAR.

1st sess. 48th Cong., J. of S., 98.] DECEMBER 19, 1883.

The President *pro tempore* notified the Senate of his intention of being absent from the Senate for the next two succeeding days, and asked unanimous consent for leave to designate a Senator to perform the duties of the Chair during such temporary absence; which was granted.

Whereupon

The President *pro tempore* designated Mr. George F. Hoar, a Senator from the State of Massachusetts, to perform the duties of the Chair during his absence.

HENRY B. ANTHONY.

1st sess. 48th Cong., J. of S., 349.] FEBRUARY 26, 1884.

Mr. Henry B. Anthony, a Senator from the State of Rhode Island, called the Senate to order, and the Secretary read the following letter:

TUESDAY, *February 26, 1884.*

To the Senate:

Pursuant to the provisions of the rule, I hereby name and designate the Hon. Henry B. Anthony, a Senator from the State of Rhode Island, to perform the duties of the chair for Tuesday, February 26, instant.

GEORGE F. EDMUNDS,
President pro tempore.

Whereupon

Mr. Anthony took the chair.

JOSEPH R. HAWLEY.

1st sess. 49th Cong., J. of S., 165.] JANUARY 13, 1886.

The President *pro tempore* stated that he would be absent from the Senate during the remainder of the week, and asked unanimous consent that during his absence Mr. Joseph R. Hawley, a Senator from the State of Connecticut, may occupy the chair; which was granted.

INVESTIGATION OF CHARGES.

3d sess. 42d Cong., J. of S., 222.] JANUARY 28, 1873.

The Vice-President here rose and asked permission to make a statement personal to himself, and addressed the Senate as follows:

SENATORS: Before commencing the morning business I ask your indulgence for a few remarks personal to myself in my relations to this body as its presiding officer. Grave charges affecting my character as a man are before the American people, and I do not underrate the circumstantial evidence by which they are supported. But, conscious of my innocence and my rectitude, I respectfully ask for the appointment of a committee of Senators to make the most thorough and exhaustive investigation

into these charges, with authority to send for persons and papers, and a majority of which committee shall be Senators politically opposed to me.

The Senator from Rhode Island will please take the chair.

Mr. Anthony thereupon took the chair,

Whereupon

Mr. Pratt submitted the following resolution:

Resolved, That a select committee of five be appointed to investigate charges made against the Vice-President, with power to send for persons and papers.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

On the question to agree thereto,

It was determined in the negative.

[See Cong. Globe, 3d sess. 42d Cong., 895. Remarks by Mr. Thurman.]

COMPENSATION.

1st sess. 34th Cong., J. of S., 20.] DECEMBER 18, 1853.

Resolved, That there be paid out of the contingent fund of the Senate to the Hon. Jesse D. Bright the difference between the amount now received by him and the compensation of Vice-President from the date of his election as President of the Senate *pro tempore* to the close of his service as such, according to the practice which has heretofore prevailed.

[Globe, 1st sess. 34th Cong., 35.]

2d sess. 28th Cong., J. of S., 243.] MARCH 3, 1845.

Mr. Walker, by unanimous consent, had leave to submit the following resolution:

Resolved, That the difference between the salary of Vice-President and the amount received by the Hon. Willie P. Mangum, as United States Senator, for mileage and for pay as a Senator, and the additional pay as President *pro tempore* from the thirty-first of May, one thousand eight hundred and forty-two, and the third of March, one thousand eight hundred and forty-five, be paid from the contingent fund of the Senate.

The said resolution was read a first and second time by unanimous consent, and considered as in Committee of the Whole; and no amendment being made, it was reported to the Senate.

Ordered, That it be engrossed and read a third time.

The said resolution was read a third time by unanimous consent.

Resolved, That it pass.

2d sess. 33d Cong., J. of S., 31.] DECEMBER 7, 1854.

Resolved, That there be paid out of the contingent fund to the Hon. David R. Atchison the difference between the amount which he has already received as President *pro tempore* of the Senate and the compensation of Vice-President, from the date of his election by the Senate as their President *pro tempore* to the commencement of the present session, according to the practice which has heretofore prevailed.

[For statutes giving extra compensation to the President *pro tempore*, see Stat. 1816, c. 30, 3 Stat. 257 (*supra*, p. 126); Stat. 1818, c. 5, 3 Stat. 404 (*supra*, p. 127), and Stat. 1856, c. 123, 11 Stat. 48 (*supra*, p. 127).

VOTE.

1 J. of S., 429.] APRIL 19, 1792.

Resolved, That the President *pro tempore* of the Senate, as a member, retain his right to vote upon all questions.

CLASSIFICATION OF SENATORS.

May 14, 1789, in accordance with the report of a committee appointed to report a plan for classifying the members of the Senate, the Senators then sitting were divided arbitrarily into three classes, the first including six members and the second and third seven each. Three papers numbered 1, 2, and 3, respectively, were then put in a box by the Secretary, and one Senator from each class drew a number. The class whose member drew No. 1 vacated their seats at the expiration of the second year, the class drawing No. 2 vacated their seats at the expiration of the fourth year, and the class drawing No. 3 at the end of the sixth year. Thereafter when Senators appeared from States not represented at the time of this classification they were assigned to classes by lot.

In order to prevent any unnecessary inequality in the classes this plan was adopted when the Senators from New York appeared. One class then had six members and the others seven each. Accordingly two lots, one bearing the number 3, the number of the small class, and one blank were put in the box. The Senator drawing No. 3 was placed in the small class. Two other numbers, Nos. 1 and 2, were then put in the box, and the Senator who had drawn the blank in the former drawing drew from these two, taking his place in the class whose number he drew.

When the Senators from North Carolina appeared two classes had six members and one seven. There being two small classes, therefore, the numbers of these classes were put in the box and each Senator drew one, and was classed according to the number he drew.

The classes were then equal. Hence the classification of the Senators from Rhode Island, the next State to send representatives to the Senate, was accomplished by putting three numbers in the box, from which each Senator drew one. Again one class had one less member than the others. The Senators from Vermont, therefore, were classified in the same manner as were those of New York.

All Senators from new States were classified in accordance with the practice thus established until the admission of the States of Washington, North Dakota, and South Dakota. The Senators of these three States appearing together, three numbered papers were put in the box and one Senator from each of the new States drew a number. The Senators from the State drawing No. 1 were first classified, then the Senators from the State drawing No. 2, and finally the Senators from the State drawing No. 3. There were two small classes, those numbered 1 and 3 in the classification of 1789. Accordingly these two numbers were placed in the box and the Senators from Washington, who had drawn the right to be classed first, drew one each. The classes being then equal, three numbers were placed in the box and the Senators from South Dakota drew. This gave one small class. Hence a numbered paper and blank were put in the box and the Senator from North Dakota drawing the blank drew a second time from two papers bearing the numbers of the other two classes.

The Senators from Idaho, Montana, and Wyoming being ready for classification at different times, were assigned in the usual way.

[The following extracts from the Journal of the Senate are contained in a document prepared by the committee on rules in 1889, giving the proceedings in the classification of Senators from 1789 to 1876.]

1 J. of S., 24.] MAY 11, 1789.

Ordered, That a committee, to consist of Mr. Ellsworth, Mr. Carroll, and Mr. Few, be appointed, to consider and report a mode of carrying into execution the second paragraph of the third section of the first article of the Constitution.

1 J. of S., 25.] MAY 14, 1789.

The committee appointed to consider and report a mode of carrying into effect the provision in the second clause of the third section of the first article of the Constitution reported; whereupon

Resolved, That the Senators be divided into three classes—

The first, to consist of Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn;

The second, of Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few;

And the third, of Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson.

That three papers of an equal size, numbered 1, 2, and 3, be, by the Secretary, rolled up and put into a box and drawn by Mr. Langdon, Mr. Wingate, and Mr. Dalton, in behalf of the respective classes in which each of them are placed; and that the classes shall vacate their seats in the Senate according to the order of numbers drawn for them, beginning with No. 1.

And that when Senators shall take their seats from States that have not yet appointed Senators they shall be placed by lot in the foregoing classes, but in such manner as shall keep the classes as nearly equal as may be in numbers.

1 J. of S., 26.] MAY 15, 1789.

The Senate proceeded to determine the classes, agreeably to the resolve of yesterday, on the mode of carrying into effect the provision of the second clause of the third section of the first article of the Constitution; and, the numbers being drawn, the classes were determined as follows:

Lot No. 1, drawn by Mr. Dalton, contained Mr. Dalton, Mr. Ellsworth, Mr. Elmer, Mr. Maclay, Mr. Read, Mr. Carroll, and Mr. Grayson, whose seats shall accordingly be vacated in the Senate at the expiration of the second year.

Lot No. 2, drawn by Mr. Wingate, contained Mr. Wingate, Mr. Strong, Mr. Paterson, Mr. Bassett, Mr. Lee, Mr. Butler, and Mr. Few, whose seats shall accordingly be vacated in the Senate at the expiration of the fourth year.

Lot No. 3, drawn by Mr. Langdon, contained Mr. Langdon, Mr. Johnson, Mr. Morris, Mr. Henry, Mr. Izard, and Mr. Gunn, whose seats shall accordingly be vacated in the Senate at the expiration of the sixth year.

1 J. of S., 48.] JULY 28, 1789.

On motion, the Senators from the State of New York proceeded to draw lots for their classes in conformity to the resolve of the 14th of May; and two lots, No. 3 and a blank, being by the Secretary rolled up and put into the box, Mr. Schuyler drew blank; and Mr. King having drawn No. 3, his seat shall accordingly be vacated in the Senate at the expiration of the sixth year.

The Secretary proceeded to put two other lots into the box, marked Nos. 1 and 2, and Mr. Schuyler having drawn lot No. 1 his seat shall accordingly be vacated in the Senate at the expiration of the second year. (S. J., Vol. 1, 48.)

1 J. of S., 109.] JANUARY 29, 1790.

On motion, the Senators from the State of North Carolina proceeded to draw lots for their classes in conformity to the resolve of the Senate of May the 14, 1789; and two lots, Nos. 2 and 3, being by the Secretary rolled up and put into the box, Mr. Johnston drew lot No. 2, whose seat in the Senate shall accordingly be vacated at the expiration of the fourth year.

And Mr. Hawkins drew lot No. 3, whose seat in the Senate shall accordingly be vacated at the expiration of the sixth year.

1 J. of S., 166.] JUNE 25, 1790.

On motion, the Senators from the State of Rhode Island and Providence Plantations proceeded to draw lots for their classes, in conformity to the resolve of the 14th of May, 1789; and three lots, Nos. 1, 2, and 3, being by the Secretary rolled up and put into the box, Mr. Stanton drew lot No. 2, whose seat shall accordingly be vacated in the Senate at the expiration of the fourth year.

And Mr. Foster drew lot No. 1, whose seat shall accordingly be vacated in the Senat the expiration of the second year.

1 J. of S., 337.] NOVEMBER 7, 1791.

The Senate assembled and proceeded to class the Senators from the State of Vermont in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires. Whereupon,

No. 3 and a blank were by the Secretary put into the box, when Mr. Robinson

drew the blank and Mr. Bradley drew No. 3; Mr. Bradley is accordingly of the class whose seats will be vacated in the Senate at the expiration of four years from March, 1791.

The numbers 1 and 2 were then put into the box, when Mr. Robinson drew No. 1, who is accordingly of the class whose seats will be vacated in the Senate at the expiration of six years from March, 1791.

1 J. of S.,457.] NOVEMBER 9, 1792.

The Senate proceeded to class the Senators from the State of Kentucky, as the Constitution requires; when, Nos. 2 and 3 being by the Secretary rolled up and put into the ballot box, Mr. Brown drew No. 2, and is accordingly of the class whose seats will be vacated in the Senate at the expiration of two years from March, 1791. Mr. Edwards drew No. 3, and is accordingly of the class whose seats in Senate will be vacated at the expiration of four years from March, 1791.

2 J. of S., 302.] DECEMBER 10, 1796.

The Senate proceeded to class the Senators from the State of Tennessee, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

Whereupon,

Nos. 1, 2, and 3 were, by the Secretary, rolled up and put into the ballot-box, when Mr. Blount drew No. 2, and is accordingly of the class whose seats will become vacated on the 3d of March, 1799.

Mr. Cocke drew No. 1, and is accordingly of the class whose seats will become vacated on the 3d of March, 1797.

3 J. of S., 325.] DECEMBER 15, 1803.

On motion, the Senate proceeded to ascertain the classes in which the Senators of the State of Ohio should be inserted, as the Constitution and rule heretofore adopted prescribe; and

Ordered, That two lots, No. 2 and a blank, be by the Secretary rolled up and put *into* the ballot box, and it was understood that the Senator who should draw the lot *No.* 2 should be inserted in the class of Senators whose terms of service respectively expire in four years from and after the 3d day of March, 1803, in order to equalize the classes. Accordingly, Mr. Worthington drew lot No. 2, and Mr. John Smith drew the blank.

It was then agreed that two lots, Nos. 1 and 3, should be by the Secretary rolled up and put into the ballot box, and one of these be drawn by Mr. John Smith, the Senator from the State of Ohio not classed; and it was understood that if he should draw lot No. 1 he should be inserted in the class of Senators whose terms of service will respectively expire in two years from and after the 3d day of March, 1803; but, if he should draw lot No. 3, it was understood that he should be inserted in the class of Senators whose terms respectively expire in six years from and after the 3d day of March, 1803.

Mr. John Smith drew lot No. 3, and is classed accordingly.

2d. sess. 12th Cong., J. of S., 209.] NOVEMBER 27, 1812.

The Senate resumed the consideration of the motion submitted the 24th instant, that they proceed to ascertain the classes in which the Senators of the State of Louisiana should be inserted, as the Constitution and rule heretofore prescribe; and, having agreed thereto,

On motion by Mr. Taylor,

Ordered, That the Secretary roll up and put into ballot box two lots, No. 1 and No. 3; that the Senator for whom lot No. 1 shall be drawn shall be inserted in the class of Senators whose terms of service expire on the 3d day of March next; and the Senator for whom lot No. 3 shall be drawn shall be inserted in the class of Senators whose terms of service expire four years after the 3d day of March next.

Whereupon,

The numbers above mentioned were by the Secretary rolled up and put into the ballot box, and No. 1 was drawn for the Hon. Allan B. Magruder, who is accordingly in the class of class of Senators whose terms of service will expire on the 3d day of March next; and No. 3 was drawn for the Hon. Thomas Posey, who is accordingly in the class of Senators whose term of service will expire in four years after the 3d day of March next.

2d sess. 14th Cong., J. of S., 42.] DECEMBER 12, 1816.

On motion by Mr. Morrow,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Indiana shall be inserted, in conformity to the resolution of the 14th May, 1789, and as the Constitution requires.

On motion by Mr. Morrow,

Ordered, That the Secretary put into the ballot box three papers, of equal size, numbered 1, 2, and 3; each of the said Senators shall draw out one paper. No. 1, if drawn, shall entitle the member to be placed in the class of Senators whose terms of service will expire on the 3d of March, 1817; No. 2 in the class whose terms will expire on the 3d of March, 1819, and No. 3 in the class whose terms will expire on the 3d of March, 1821.

Whereupon,

The numbers above mentioned were, by the Secretary, rolled up and put into the box; when Mr. Noble drew No. 3, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1821; and Mr. Taylor drew No. 2, and is accordingly of the class whose terms of service will expire on the 3d of March, 1819.

1st sess. 15th Cong., J. of S., 30.] DECEMBER 12, 1817.

On motion by Mr. Barbour,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Mississippi shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires; and

Ordered, That two lots, No. 3 and a blank, be by the Secretary rolled up and put into the ballot box; and it is understood that the Senator who shall draw the lot No. 3 should be inserted in the class of Senators whose terms of service respectively expire in six years from and after the 3d day of March, 1817, in order to equalize the classes; accordingly Mr. Williams drew lot No. 3, and Mr. Leake drew the blank.

It was then agreed that two lots, Nos. 1 and 2, should be by the Secretary rolled up and put into the ballot box, and one of these be drawn by Mr. Leake, the Senator from the State of Mississippi not classed; and it was understood that if he should draw lot No. 1, he should be inserted in the class of Senators whose terms of service will respectively expire in two years from and after the third day of March, 1817; but if he should draw lot No. 2, it was understood that he should be inserted in the class of Senators whose terms of service respectively expire in four years, from and after the third day of March, 1817; when Mr. Leake drew No. 2, and is classed accordingly.

2d sess. 15th Cong., J. of S., 53.] DECEMBER 4, 1818.

On motion by Mr. Morrow,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Illinois shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, numbered 1 and 3; each of the said Senators shall draw out one paper. The Senator who shall draw No. 1 shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1819; and the Senator who shall draw No. 3, in the class of Senators whose term of service will expire on the 3d of March, 1823.

Whereupon,

The numbers above mentioned were by the Secretary rolled up and put into the box; when Mr. Edwards drew No. 1, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1819; and Mr. Thomas drew No. 3, and is accordingly of the class whose terms of service will expire on the 3d of March, 1823.

1st sess. 16th Cong., J. of S., 45.] DECEMBER 22, 1819.

On motion by Mr. Williams, of Mississippi,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Alabama shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

That the Secretary put into the ballot-box three papers, of equal size, numbered 1, 2, 3; each Senator shall draw out one paper; the Senator who shall draw No. 1, shall be inserted in the class of Senators whose terms of service will expire on the 3d of March, 1821; the Senator who shall draw No. 2, shall be inserted in the class of Senators whose term of service expires on the 3d of March, 1823; and the Senator who shall draw No. 3, shall be inserted in the class of Senators whose term of service expires on the 3d of March, 1825.

Whereupon,

The numbers above mentioned were, by the Secretary, rolled up and put into the box; when Mr. King drew No. 2, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1823; and Mr. Walker drew No. 3, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1825.

2d sess. 16th Cong., J. of S., 6.] NOVEMBER 13, 1820.

On motion by Mr. Burrill,

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Maine shall be inserted, in conformity to the resolution of the 14th of May, 1789, as the Constitution requires.

That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be blank, and each Senator shall draw out one paper; that the Senator who shall draw out the paper numbered 1 shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1821.

That the Secretary shall put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other numbered 3; the other Senator shall then draw one of said papers, and if he shall draw number 2, shall be inserted in the class whose term of service will expire on the 3d of March, 1823; or if he shall draw number 3, he shall be inserted in the class whose term of service will expire on the 3d of March, 1825.

Whereupon,

The papers above mentioned were by the Secretary put into the box, when Mr. Holmes drew No. 1, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1821; and Mr. Chandler drew No. 2, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1823.

1st sess. 17th Cong., J. of S., 21.] DECEMBER 6, 1821.

On motion by Mr. Parrott,,

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Missouri shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be numbered 3, and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered 2 shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1825; and that the Senator who shall draw the paper numbered 3 shall be inserted in the class of Senators whose term of service will expire on the 3d day of March, 1827.

Whereupon,

The numbers above mentioned were by the Secretary rolled up and put into the box; when Mr. Barton drew No. 2, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1825; and Mr. Benton drew No. 3, and is accordingly of the class of Senators whose terms of service will expire on the 3d of March, 1827.

2d sess. 24th Cong., J. of S., 4.] DECEMBER 5, 1836.

Mr. Benton submitted the follow motion; which was considered and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Arkansas shall be inserted, in conformity with the resolution of the 14th May, 1789, and as the Constitution requires.

On motion by Mr. Benton,

Ordered, That the Secretary put into the ballot box three papers of equal size, numbered 1, 2, 3. Each of the Senators of the State of Arkansas shall draw out one paper. No. 1, if drawn, shall entitle the member to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1837; No. 2, in the class whose terms will expire the 3d day of March, 1839, and No. 3, in the class whose terms will expire the 3d day of March, 1841.

Whereupon,

The papers above mentioned were put by the Secretary into the box, and the Hon. Ambrose H. Sevier drew No. 1, and is accordingly of the class of Senators whose terms of service will expire the 3d of March, 1837; and the Hon. William S. Fulton drew No. 3, and is accordingly of the class of Senators whose terms of service will expire the 3d day of March, 1841.

2d sess. 24th Cong., J. of S., 166.] JANUARY 27, 1837.

On motion by Mr. Grundy,

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Michigan shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

On motion by Mr. Grundy,

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be a blank. Each of the Senators of the State of Michigan shall draw out one paper; and the Senator who shall draw the paper numbered 2 shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1839.

That the Secretary then put into the ballot box two papers of equal size, one of which shall be numbered 1, and the other shall be numbered 3. The other Senators shall draw out one paper. If the paper drawn be numbered 1 the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1837; and if the paper drawn be numbered 3, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1841.

Whereupon,

The papers first above mentioned being put by the Secretary into the ballot box, the Hon. Lucius Lyon drew the paper numbered 2, and is accordingly in the class of Senators whose terms will expire the 3d day of March, 1839, and the Hon. John Norvell drew the blank.

The papers numbered 1 and 3 were then put by the Secretary into the box; and the Hon. John Norvell drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1841.

1st sess. 29th Cong., J. of S., 6.] DECEMBER 1, 1845.

Mr. Sevier submitted the following resolution for consideration:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Florida shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires; that the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be numbered 3, and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered 2 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1849; and the Senator who shall draw the paper numbered 3 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1851.

1st sess. 29th Cong., J. of S., 7.] DECEMBER 2, 1845.

The Senate proceeded to consider the resolution submitted yesterday by Mr. Sevier, to classify the Senators from the State of Florida; and the resolution was agreed to.

Whereupon,

The papers, with the respective numbers specified in the resolution, were by the Secretary put into the ballot box; when Mr. Levy drew No. 3, and is accordingly of the class of Senators whose terms of service will expire the 3d day of March, 1851, and Mr. Wescott drew No. 2, and is of the class of Senators whose terms of service will expire the 3d day of March, 1849.

1st sess. 29th Cong., J. of S., 216.] MARCH 30, 1846.

Mr. Speight submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Texas shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

On motion by Mr. Speight,

Ordered, That the Secretary put into the ballot box three papers of equal size, numbered 1, 2, 3; that each Senator from the State of Texas draw out one paper; that number 1, if drawn, shall entitle the Senator to be placed in the class whose term of service will expire the 3d day of March, 1847; number 2, in the class whose term will expire the 3d day of March, 1849; and number 3, in the class whose term will expire the 3d day of March, 1851.

Whereupon,

The papers above mentioned were put by the Secretary into the box, and Mr. Houston drew number 1, and is accordingly in the class of Senators whose term of service will expire the 3d day of March, 1847; and Mr. Rusk drew number 3, and is accordingly in the class of Senators whose term of service will expire the 3d day of March, 1851.

1st sess. 30th Cong., J. of S., 418.] JUNE 26, 1848.

Mr. Benton submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Wisconsin shall be inserted, in conformity with the resolution of the 14th May, 1789, and as the Constitution provides.

On motion by Mr. Benton,

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which to be numbered 1 and the other to be blank; that each Senator from the State of Wisconsin draw out one paper; that number 1 shall entitle the Senator to be placed in the class whose term of service will expire the 3d day of March, 1849; that the Secretary then put into the ballot box two other papers of equal size, numbered 2 and 3; that the Senator who shall have drawn the blank shall then draw one of these papers; that number 2, if drawn, shall entitle the Senator to be placed in the class whose term of service will expire the 3d of March, 1851; and number 3 in the class whose term will expire the 3d day of March, 1853.

Whereupon,

The papers above mentioned, numbered 1 and a blank, were put by the Secretary in the box, and Mr. Walker drew the paper numbered 1, and is accordingly in the class of Senators whose term of service will expire the 3d day of March, 1849.

The Secretary then put the papers numbered 2 and 3 into the box, and Mr. Dodge drew the paper numbered 2, and is accordingly in the class of Senators whose term of service will expire the 3d day of March, 1851.

2d sess. 30th Cong., J. of S., 81.] DECEMBER 26, 1848.

Mr. Allen submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Iowa shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution provides.

Mr. Allen submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be numbered 3; and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered 1 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1849; and the Senator who shall draw the paper numbered 3 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1853.

Whereupon,

The papers above mentioned, number 1 and number 3, were put by the Secretary in the box, and Mr. Dodge drew the paper number 1, and is accordingly in the class of Senators whose term of service will expire the 3d of March, 1849; and Mr. Jones drew the paper number 3, and is accordingly in the class of Senators whose term of service will expire the 3d day of March, 1853.

1st sess. 31st Cong., J. of S., 617.] SEPTEMBER 10, 1850.

Mr. Barnwell submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of California shall be inserted, in conformity with the resolution of the 14th May, 1789, and as the Constitution requires.

On motion by Mr. Barnwell,

Ordered, That the Secretary put into the ballot box three papers of equal size, numbered 1, 2, 3. Each of the Senators of the State of California shall draw out one paper. Number 1, if drawn, shall entitle the member to be placed in the class of Senators whose term of service will expire the 3d day of March, 1851; number 2, in the class whose term will expire the 3d day of March, 1853, and number 3, in the class whose term will expire the 3d day of March, 1855.

Whereupon three papers, marked No. 1, No. 2, and No. 3, were by the Secretary put into the ballot box, and paper No. 1 was drawn by the honorable John C. Fremont, who is accordingly in the class of Senators whose terms will expire the 4th day of March, 1851; and paper No. 3 was drawn by the honorable William M. Gwin, who is accordingly in the class of Senators whose terms will expire the 4th day of March, 1855.

1st sess. 35th Cong., J. of S., 450.] MAY 14, 1858.

Mr. Bayard, from the Committee on the Judiciary, to whom was referred a resolution of the legislature of Minnesota in joint convention, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Minnesota shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

On motion by Mr. Bayard,

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be a blank. Each of the Senators of the State of Minnesota shall draw out one paper, and the Senator who shall draw the paper numbered 1 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1859.

That the Secretary then put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be numbered 3. The other Senator shall draw out one paper. If the paper drawn be numbered 2 the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1861, and if the paper drawn be numbered 3 the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1863.

Whereupon,

The papers first above mentioned being put by the Secretary into the ballot box, the honorable James Shields drew the paper numbered 1 and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1859, and the honorable Henry M. Rice drew the blank. The papers numbered 2 and 3 were then put by the Secretary into the box, and the honorable Henry M. Rice drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1863.

2d sess. 35th Cong., J. of S., 315.] FEBRUARY 14, 1859.

Mr. Gwin submitted the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Oregon shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Resolved, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be numbered 2, and each Senator shall draw out one paper; that the Senator who shall draw the paper numbered 1 shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1859, and the Senator who shall draw the paper numbered 2 shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1861.

Whereupon,

The papers above mentioned being put by the Secretary into the ballot box, the Hon. Joseph Lane drew the paper numbered 2, and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1861. The Hon. Delazon Smith drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1859.

1st sess. 37th Cong., J. of S., 6.] JULY 4, 1861.

Mr. Grimes submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators of the State of Kansas shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Mr. Grimes submitted the following motion; which was considered by unanimous consent, and agreed to:

Ordered, That the Secretary put into the ballot box three papers of equal size, numbered 1, 2, and 3; each of the Senators of the State of Kansas shall draw out one paper; number 1, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire on the 3d day of March, 1863; number 2 shall entitle the Senator to be placed in the class whose terms will expire on the 3d day of March, 1865; and number 3 shall entitle the Senator to be placed in the class whose terms will expire on the 3d day of March, 1867.

Whereupon,

Three papers, marked number 1, number 2, and number 3, were by the Secretary put into the ballot box.

The paper marked number 2 was drawn by the honorable James H. Lane, who is

accordingly in the class of Senators whose terms will expire on the 3d day of March, 1865.

The paper marked number 3 was drawn by the honorable Samuel C. Pomeroy, who is accordingly in the class of Senators whose terms will expire on the 3d day of March, 1867.

1st sess. 38th Cong., J. of S., 6.] DECEMBER 7, 1863.

Mr. Foot submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of West Virginia shall be inserted, in conformity with the resolution of the 14th May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be a blank. Each of the Senators of the State of West Virginia shall draw out one paper, and the Senator who shall draw the paper numbered 1 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1869.

That the Secretary then put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be numbered 3. The other Senator shall draw out one paper. If the paper drawn be numbered 2, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1865; and if the paper drawn be numbered 3, the Senator shall be inserted in the class of Senators whose terms of service will expire the 3d day of March, 1867.

The Secretary having put into the ballot box two papers, one of which was numbered 1 and the other a blank, the honorable Peter G. Van Winkle drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1869.

The papers numbered 2 and 3 were then put by the Secretary into the box, and the honorable Waitman T. Willey drew the paper numbered 2, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1865.

2d sess. 38th Cong., J. of S., 131.] FEBRUARY 1, 1865.

Mr. Foot submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes in which the Senators from the State of Nevada shall be inserted, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1, and the other shall be numbered 3. Each of the Senators from the State of Nevada shall draw out one paper; and the Senator who shall draw out the paper numbered 1 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1869; and the Senator who shall draw out the paper numbered 3, shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1867.

The Secretary having put into the ballot box two papers, one of which was numbered 1 and the other numbered 3, Mr. Stewart drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1869. Mr. Nye drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire on the 3d of March, 1867.

1st sess. 40th Cong., J. of S., 5.] MARCH 4, 1867.

Mr. Trumbull submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate proceed to ascertain the classes to which the Senators from the State of Nebraska shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires; and

That the Secretary put into the ballot box three papers of equal size, numbered 1, 2, 3. Each of the Senators from the State of Nebraska shall draw out one paper. The paper numbered 1, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1869; the paper numbered 2, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1871; and the paper numbered 3, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1873.

The Secretary having put into the ballot box three papers, numbered 1, 2, and 3, respectively, Mr. Thayer drew the paper numbered 2, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1871. Mr. Tipton drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1869.

2d sess. 44th Cong., J. of S., 6.] DECEMBER 4, 1876.

Mr. Hitchcock submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Senate now proceed to ascertain the classes to which the Senators from the State of Colorado shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 2 and the other shall be a blank. Each of the Senators from the State of Colorado shall draw out one paper, and the Senator who shall draw the paper numbered 2 shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1879. That the Secretary then put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be numbered 3. The other Senator shall draw out one paper. If the paper drawn be numbered 1, the Senator shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1877; and if the paper drawn be numbered 3, the Senator shall be inserted in the class of Senators whose term of service will expire the 3d day of March, 1881.

The Secretary having put into the ballot box two papers, one of which was numbered 2 and the other blank, Mr. Jerome B. Chaffee drew the paper numbered 2, and is accordingly in the class of Senators whose term of service will expire on the 3d day of March, 1879.

Two papers, numbered 1 and 3, were then put by the Secretary into the box, and Mr. Henry M. Teller drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1877.

SENATORS FROM NORTH AND SOUTH DAKOTA AND WASHINGTON.

1st sess. 51st Cong., J. of S. 4.] DECEMBER 2, 1889.

Mr. Hoar submitted the following resolution; which was referred to the Committee on Privileges and Elections and ordered to be printed:

Resolved, That the Senate proceed to ascertain the classes to which the Senators from North Dakota, South Dakota, and Washington shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box three papers of equal size, one of which shall be numbered 1, one of which shall be numbered 2, and one of which shall be numbered 3. The Senator from each of said States whose name comes first in alphabetical order shall thereupon, in the presence of the Senate, draw one of said papers from the box in behalf of his State. The Senators from the States drawing the paper numbered 1 shall thereupon first be assigned to their respective classes. The Senators from the States drawing papers numbered 2 shall next be assigned to their respective classes. The Senators from the States drawing papers numbered 3 shall next be assigned to their respective classes.

The Secretary shall, as soon as said drawing is completed, put into the ballot box two papers of equal size, one of which shall be numbered 1 and one of which shall be numbered 3. Each of the Senators from the States whose Senators are first to be assigned to their respective classes shall thereupon draw out one paper, and the Senator who shall draw out the paper numbered 1 shall thereupon be inserted in the class of Senators whose term of service will expire March 3, 1893, and the Senator who shall draw out the paper numbered 3 shall thereupon be inserted in the class of Senators whose term of service will expire March 3, 1891.

The Secretary shall then place in the ballot box three papers of equal size, one of which shall be numbered 1, one of which shall be numbered 2, and one of which shall be numbered 3. Each of the Senators from the State whose Senators are next to be assigned to their respective classes shall thereupon draw out one paper. If either Senator shall draw out paper numbered 1, he shall be assigned to the class whose term will expire March 3, 1893. If either Senator shall draw out paper numbered 2, he shall be assigned to the class whose term will expire March 3, 1895. If either Senator shall draw out paper numbered 3, he shall be assigned to the class whose term will expire March 3, 1891. The Secretary shall then place in the ballot box two papers of equal size, one of which shall be blank and the other shall bear the number of the class to which no Senator was assigned at the drawing of the State whose Senators were last assigned, number 1 representing the class whose term will expire March 3, 1893, number 2 representing the class whose term will expire March 3, 1895, and number 3 representing the class whose term will expire March 3, 1891. Each of the Senators from the State whose Senators are next to be assigned to their respective classes shall thereupon draw out one paper. The Senator who shall draw out the paper bearing a number shall be assigned to the class of Senators

represented by the number he has drawn. The Secretary shall then place in the ballot box two papers of equal size, bearing respectively the numbers of the other two classes. The Senator who has drawn the blank shall thereupon draw one of said papers, and shall be assigned to the class representing the number he has drawn.

[Cong. Rec., 1st sess., 51st Cong., 78.]

Ib., 12.] DECEMBER 4, 1889.

Mr. Cullom presented resolutions of the Senate and House of Representatives of the State of North Dakota, requesting that in the classification of the Senators from that State Gilbert A. Pierce be assigned the long term; which was read.

[Cong. Rec., ib., 92, 93.]

1st sess. 51st Cong., J. of S., 12.] DECEMBER 4, 1889.

Mr. Hoar, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by him on the 2d instant, providing for the classification of the Senators from the States of North Dakota, South Dakota, and Washington, reported it without amendment.

The Senate proceeded by unanimous consent to consider the resolution; and the resolution was agreed to, as follows:

Resolved, That the Senate proceed to ascertain the classes to which the Senators from North Dakota, South Dakota, and Washington shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box three papers of equal size, one of which shall be numbered 1, one of which shall be numbered 2, and one of which shall be numbered 3. The Senator from each of said States whose name comes first in alphabetical order shall thereupon, in the presence of the Senate, draw one of said papers from the box in behalf of his State. The Senators from the State drawing paper numbered 1 shall thereupon first be assigned to their respective classes. The Senators from the State drawing paper numbered 2 shall next be assigned to their respective classes. The Senators from the State drawing paper numbered 3 shall next be assigned to their respective classes.

The Secretary shall, as soon as said drawing is completed, put into the ballot box two papers of equal size, one of which shall be numbered 1 and one of which shall be numbered 3. Each of the Senators from the State whose Senators are first to be assigned to their respective classes shall thereupon draw out one paper; and the Senator who shall draw out the paper numbered 1 shall thereupon be inserted in the class of Senators whose term of service will expire March 3, 1893; and the Senator who shall draw out the paper numbered 3 shall thereupon be inserted in the class of Senators whose term of service will expire March 3, 1891.

The Secretary shall then place in the ballot box three papers of equal size, one of which shall be numbered 1, one of which shall be numbered 2, and one of which shall be numbered 3. Each of the Senators from the State whose Senators are next to be assigned to their respective classes shall therefrom draw out one paper. If either Senator shall draw out paper numbered 1, he shall be assigned to the class whose term will expire March 3, 1893. If either Senator shall draw out paper numbered 2, he shall be assigned to the class whose term will expire March 3, 1895.

If either Senator shall draw out paper numbered 3, he shall be assigned to the class whose term will expire March 3, 1891.

The Secretary shall then place in the ballot box two papers of equal size, one of which shall be blank and the other shall bear the number of the class to which no Senator was assigned at the drawing of the State whose Senators were last assigned, number 1 representing the class whose term will expire March 3, 1893; number 2 representing the class whose term will expire March 3, 1895, and number 3 representing the class whose term will expire March 3, 1891. Each of the Senators from the State whose Senators are next to be assigned to their respective classes shall thereupon draw out one paper. The Senator who shall draw out one paper bearing a number shall be assigned to the class of Senators represented by the number he has drawn.

The Secretary shall then place in the ballot box two papers of equal size, bearing respectively the numbers of the other two classes. The Senator who has drawn the blank shall thereupon draw out one of said papers, and shall be assigned to the class representing the number he has drawn.

Whereupon, in pursuance of the order, the Secretary having put into the ballot box three papers of equal size, numbered 1, 2, and 3 respectively, Mr. Allen, from the State of Washington, drew the paper numbered 1; Mr. Moody, from the State of South Dakota, drew the paper numbered 2; and Mr. Casey, from the State of North Dakota, drew the paper numbered 3.

The Secretary having then put into the ballot box two papers, one of which was numbered 1 and the other numbered 3, Mr. Allen, from the State of Washington,

drew the paper numbered 1 and is accordingly in the class of Senators whose terms of service will expire March 3, 1893. Mr. Squire, from the same State, drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire March 3, 1891.

The Secretary having then put into the ballot box three papers of equal size, numbered 1, 2, and 3 respectively, Mr. Moody, from the State of South Dakota, drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire March 3, 1891. Mr. Pettigrew, from the same State, drew the paper numbered 2, and is accordingly classed with the Senators whose terms of service will expire March 3, 1895.

The Secretary having then put into the ballot box two papers of equal size, one numbered 1 and the other a blank, Mr. Casey, from the State of North Dakota, drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service expire March 3, 1893.

The Secretary having then put into the ballot box two papers of equal size, one of which was numbered 2 and the other of which was numbered 3, Mr. Pierce, from the State of North Dakota, drew the paper numbered 3, and is accordingly in the class of Senators whose terms of service will expire March 3, 1891.

[There was no debate.]

SENATORS FROM MONTANA.

1st sess. 51st Cong., J. of S., 236.] APRIL 16, 1890.

Mr. Hoar submitted the following resolution for consideration:

Resolved, That the Senate proceed to ascertain the classes to which the Senators from the State of Montana shall be assigned, in conformity with the resolutions of May 14, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be numbered 2. Each of the Senators from the State of Montana shall draw out one paper; and the Senator who shall draw out the paper numbered 1 shall be assigned to the class of Senators whose terms of service will expire the 3d day of March, 1893; and the Senator who shall draw out the paper numbered 2 shall be assigned to the class of Senators whose terms of service will expire the 3d day of March, 1895.

1st sess. 51st Cong., J. of S., 237.] APRIL 17, 1890.

The Vice-President laid before the Senate the resolution yesterday submitted by Mr. Hoar, providing for the classification of the Senators from the State of Montana; and

The resolution was agreed to.

Whereupon,

The Secretary having put into the ballot box two papers of equal size, one of which was numbered 1 and the other numbered 2, Mr. Sanders drew out the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1893. Mr. Power drew out the paper numbered 2, and is accordingly in the class of Senators whose terms of service will expire the 3d day of March, 1895.

SENATORS FROM WYOMING.

2d sess., 51st Cong., J. of S., 4.] DECEMBER 1, 1890.

Mr. Hoar submitted the following resolutions; which were considered by unanimous consent and agreed to:

Resolved, That the Senate proceed to ascertain the classes to which the Senators from the State of Wyoming shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Resolved, That the Secretary put into the ballot box three papers of equal size, numbered respectively 1, 2, and 3. Each of the Senators from the State of Wyoming shall draw out one paper. The paper numbered 1, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1893. The paper numbered 2, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1895. And the paper numbered 3, if drawn, shall entitle the Senator to be placed in the class of Senators whose terms of service will expire the 3d day of March, 1891. Whereupon,

The Secretary having put into the ballot box three papers, numbered 1, 2, and 3 respectively, Mr. Cary drew the paper numbered 2, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1895; Mr. Warren drew the paper numbered 1, and is accordingly in the class of Senators whose terms of service will expire on the 3d day of March, 1893.

SENATORS FROM IDAHO.

2nd sess., 51st Cong., J. of S., 59.] JANUARY 7, 1891.

Mr. Hoar submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Senate now proceed to ascertain the classes to which the Senators from the State of Idaho shall be assigned, in conformity with the resolution of the 14th of May, 1789, and as the Constitution requires.

Ordered, That the Secretary put into the ballot box two papers of equal size, one of which shall be numbered 3 and the other shall be a blank. Each of the Senators from the State of Idaho shall draw out one paper, and the Senator who shall draw the paper numbered 3 shall be assigned to the class of Senators whose term of service will expire the 3d day of March, 1891. That the Secretary then put into the ballot box two papers of equal size, one of which shall be numbered 1 and the other shall be numbered 2. The other Senator shall draw out one paper. If the paper drawn be numbered 1, the Senator shall be assigned to the class of Senators whose term of service will expire the 3d day of March, 1893, and if the paper drawn be numbered 2, the Senator shall be assigned to the class of Senators whose term of service will expire the 3d day of March, 1895.

The Secretary having put into the ballot box two papers, one of which was numbered 3 and the other blank, Mr. William J. McConnell drew the paper numbered 3, and is accordingly in the class of Senators whose term of service will expire the third day of March, 1891.

Two papers, numbered 1 and 2, were then put by the Secretary into the box. Mr. George L. Shoup drew the paper numbered 2, and is accordingly in the class of Senators whose term of service will expire on the 3d day of March, 1895.

PERSONAL PRIVILEGES OF MEMBERS.

RESIGNATION.

The right of a Senator to resign his seat is unquestioned. There has, however been some difference of opinion as to the proper method of effecting a resignation

As a rule, the resignations have been made by letters definitively resigning the seat. These letters were addressed to the President of the Senate in most of the earlier instances, though in no case is there any record of the acceptance of such resignation by the Senate. In these cases the letters were read, and the only action of the Senate was a direction to its President to notify the executive of the State from which the resigning Senator came.

As early as 1803, however, a different practice had begun. November 11 of that year De Witt Clinton communicated to the Senate the fact that he had resigned his seat. The ambiguity in the entries in the Journal and the brevity in the report of the debates in the early years of the century make it impossible to state definitely when this method became general. It is certain that it did not become so immediately, for in 1804 we find a letter from Hon. Theodorus Bailey "resigning his seat in the Senate," and the executive of New York was notified of the resignation. No such instance is recorded in late years. It is now the established custom for the Senator resigning to tender his resignation to the executive of the State he represents, and to notify the Senate by letter addressed to the President of that body that he has resigned his seat. Oliver Ellsworth, appointed Chief Justice, by letter addressed to the President of the Senate, informed the Senate that he had accepted the office of Chief Justice and thereby vacated his seat in the Senate. This precedent has been followed in several cases.* This has not been the most common practice, however, even in those cases in which the Senator resigning has accepted Federal office. [For the result of a resignation tendered to take effect in the future see the case of Horace Chilton, of Texas, in Senate Election Cases 48 (1st sess. 52d Cong.)]

The following cases illustrate the practice:

WILLIAM PATTERSON.

1 J. of S., 215] DECEMBER 6, 1790.

A letter was read from his Excellency William Patterson, Governor of the State of New Jersey, communicating the resignation of his appointment to be a Senator of the United States.

SAMUEL W. JOHNSON.

1 Ex. J. of S., 84.] MARCH 4, 1791.

A letter was read from the Hon. Samuel W. Johnson, resigning his seat in the Senate of the United States.

Ordered, That the Vice-President be requested to acquaint the Governor of the State of Connecticut, that Samuel William Johnson, a Senator of the United States from that State, has resigned his seat in the Senate.

*See 2d sess. 48th Cong., J. of S., 509, letters of Messrs. Lamar and Garland for two late instances.

GEORGE READ.

2 J. of S., 3] DECEMBER 2, 1793.

The Vice President communicated a letter from the Honorable George Read, of the State of Delaware, resigning his seat in the Senate; which was read.

Ordered, That it lie on file.

2 J. of S., 300.] DECEMBER 8, 1796.

Ordered, That Messrs. Stockton, Read, and Bingham be a committee to inquire whether any, and what, regulations are proper to be made on the subject of the resignation of a Senator of the United States.

OLIVER ELLSWORTH.

1st sess. 4th Cong., J. of S., 97.] MARCH 8, 1796.

The Vice-President communicated a letter from the Hon. Oliver Ellsworth, in which he states that he hath accepted the appointment of Chief Justice of the United States, which of course vacates his seat in the Senate, which letter was read.

Ordered, That it lie on the table.

Ib., 100.] MARCH 9, 1796.

On motion by Mr. Trumbull,

Ordered, That the Vice-President be requested to notify the Executive of the State of Connecticut that the Hon. Oliver Ellsworth hath accepted the appointment of Chief Justice of the United States, and that his seat in the Senate is of course vacated.

PIERCE BUTLER.

2 J. of S., 295.] DECEMBER 6, 1796.

The Vice President communicated a letter from the Honorable Pierce Butler, notifying the resignation of his seat in the Senate, which was read.

DE WITT CLINTON.

3 J. of S., 310.] NOVEMBER 11, 1803.

The President communicated a letter from the Hon. De Witt Clinton, late a Senator from the State of New York, stating that he had resigned his seat in the Senate.

THEODORUS BAILEY.

3 J. of S., 339.] JANUARY 16, 1804.

The Vice-President communicated a letter of this date from the Hon. Theodorus Bailey, resigning his seat in the Senate; which was read; and

Ordered, That the Vice-President be requested to notify the Executive of the State of New York accordingly.

ISAAC HILL.

1st sess. 24th Cong., J. of S., 388.] MAY 28, 1836.

The Vice-President communicated a letter from the Hon. Isaac Hill, stating his intention to resign his seat in the Senate, in order to assume the office of chief magistrate of New Hampshire, to which he has been elected. The letter was read.

The following Senators have resigned:

William Paterson, New Jersey, 1790.
William Samuel Johnson, Connecticut, March 4, 1791.
Richard Henry Lee, Virginia, 1792.
C. Carroll, of Carrollton, Maryland, 1793.
George Read, Delaware, December 18, 1793.
James Monroe, Virginia, 1794.
John Taylor, Virginia 1794.
James Jackson, Georgia, 1795.
Moses Robinson, Vermont, 1796.
Pierce Butler, South Carolina, 1796.
Frederick Frelinghuysen, New Jersey, 1796.
Rufus King, New York, 1796.
Richard Potts, Maryland, 1796.
George Cabot, Massachusetts, 1796.
Caleb Strong, Massachusetts, 1796.
Jonathan Trumbull, Connecticut, 1796.
Oliver Ellsworth, Connecticut, 1796.
John Henry, Maryland, December 10, 1797.
William Bradford, Rhode Island, 1797.
Israel Tichenor, Vermont, October 17, 1797.
Andrew Jackson, Tennessee, 1798.
John Hunter, South Carolina, 1798.
John Rutherford, New Jersey, February, 1798.
John Sloss Hobart, New York, April, 1798.
John Vining, Delaware, 1798.
James Schureman, New Jersey, 1800.
James Watson, New York, 1800.
John Lawrence, New York, 1800.
James Lloyd, Maryland, 1800.
Benjamin Goodhue, Massachusetts, 1800.
Samuel Dexter, Massachusetts, 1800.
Henry Latimer, Delaware, 1801.
Samuel Livermore, New Hampshire, 1801.
Peter Muehlenberg, Pennsylvania, 1801.
Ray. Green, Rhode Island, 1801.
Charles Pinckney, South Carolina, 1801.
John Armstrong, New York, 1802.
James Sheafe, New Hampshire, 1802.
Dwight Foster, Massachusetts, 1803.
De Witt Clinton, New York, 1803.
Abraham B. Venable, Virginia, 1804.
Wilson C. Nicholas, Virginia, 1804.
Theodorus Bailey, New York, 1804.
John Armstrong, New York, 1804.
William Hill Welles, Delaware, 1804.
Pierce Butler, South Carolina, 1804.
John Breckinridge, Kentucky, 1805.
Robert Wright, Maryland, 1806.
John Adair, Kentucky, 1806.
David Stone, North Carolina, 1807.
James Fenner, Rhode Island, 1807
Isaac Smith, Vermont, 1807.
John Smith, Ohio, 1808.
Samuel Maclay, Pennsylvania, 1808.
John Quincy Adams, Massachusetts, 1808.
John Milledge, Georgia, 1809.
Buckner Thurston, Kentucky, 1809.
Aaron Kitchell, New Jersey, 1809.
Edward Tiffin, Ohio, 1809.
Daniel Smith, Tennessee, 1809.
James Hillhouse, Connecticut, 1810.
Nahum Parker, New Hampshire, 1810.
Return J. Meigs, jr., Ohio, 1810.
Thomas Sumpter, South Carolina, 1810.
Jenkins Whiteside, Tennessee, 1811.
Christopher G. Champlin, Rhode Island, 1811.
John Noel Destréhan, Louisiana, 1812.
James Lloyd, jr., Massachusetts, 1813.
James A. Bayard, Delaware, 1813.
William H. Crawford, Georgia, 1813.
Chauncey Goodrich, Connecticut, 1813.
George M. Bibb, Kentucky, 1814.
Jesse Bledsoe, Kentucky, 1814.
David Stone, North Carolina, 1814.
Thomas Worthington, Ohio, 1814.
Michael Leib, Pennsylvania, 1814.
George W. Campbell, Tennessee, 1814.
Francis Locke, North Carolina, 1815.
William B. Giles, Virginia, 1815.
William Wyatt Bibb, Georgia, 1816.
William T. Barry, Kentucky, 1816.
Robert G. Harper, Maryland, 1816.
Christopher Gore, Massachusetts, 1816.
James Turner, North Carolina, 1816.
John Taylor, South Carolina, 1816.
Dudley Chase, Vermont, 1817.
Jeremiah Mason, New Hampshire, 1817.
George M. Troup, Georgia, 1818.
Eli P. Ashmun, Massachusetts, 1818.
George W. Campbell, Tennessee, 1818.
James Fisk, Vermont, 1818.
John W. Eppes, Virginia, 1819.
John J. Crittenden, Kentucky, 1819.
John Forsyth, Georgia, 1819.
William Logan, Kentucky, 1820.
Prentiss Mellen, Massachusetts, 1820.
Walter Leake, Mississippi, 1820.
James J. Wilson, New Jersey, 1821.
Freeman Walker, Georgia, 1821.
Harrison Gray Otis, Massachusetts, 1822.
James Pleasants, Virginia, 1822.
John W. Walker, Alabama, 1822.
Cæsar A. Rodney, Delaware, 1823.
Samuel L. Southard, New Jersey, 1823.
James Brown, Louisiana, December, 1823.
Ninian Edwards, Illinois, 1824.
Henry Johnson, Louisiana, 1824.
James Barbour, Virginia, 1825.
Andrew Jackson, Tennessee, 1825.
James D'Wolf, Rhode Island.
David Holmes, Mississippi, 1825.
Edward Lloyd, Maryland, 1826.
James Lloyd, Massachusetts, 1826.
Thomas W. Cobb, Georgia, 1828.
Albion K. Parris, Maine, 1828.
Martin Van Buren, New York, 1828.
Nathaniel Macon, North Carolina, 1828.
William H. Harrison, Ohio, 1828.
John Henry Eaton, Tennessee, 1829.
Ephraim Bateman, New Jersey, January, 1829.
J. McPherson Berrien, Georgia, 1829.
Louis McLane, Delaware, 1829.
Isaac D. Barnard, Pennsylvania, 1831.
Edward Livingston, Louisiana, 1831.
Powhatan Ellis, Mississippi, 1832.
William L. Marcy, New York, 1832.
Robert Young Hayne, South Carolina, 1832.
Littleton W. Tazewell, Virginia, 1832.
Stephen D. Miller, South Carolina, 1833.
George M. Troup, Georgia, 1833.
Ezekiel F. Chambers, Maryland, 1834.
William Wilkins, Pennsylvania, 1834.
W. C. Rives, Virginia, 1834.
Peleg Sprague, Maine, 1835.
Arnold Naudain, Delaware, 1836.
John M. Clayton, Delaware, 1836.
Ether Shepley, Maine, 1836.
Isaac Hill, New Hampshire, 1836.
Willie P. Mangum, North Carolina, 1836.
John Tyler, Virginia, 1836.
Benjamin W. Leigh, Virginia, 1836.
Richard E. Parker, Virginia, 1837.
Alexander Porter, Louisiana, 1837.
John P. King, Georgia, 1837.
John McKinley, Alabama, 1837.
John Black, Mississippi, 1838.
James F. Trotter, Mississippi, 1838.
Felix Grundy, Tennessee, 1838.
John J. Crittenden, Kentucky, 1840.
John Davis, Massachusetts, 1840.
Robert Strange, North Carolina, 1840.
Hugh Lawson White, Tennessee, 1840.
Bedford Brown, North Carolina, 1840.
Daniel Webster, Massachusetts, 1841.
Clement C. Clay, Alabama, 1841.
Henry Clay, Kentucky, 1842.
Alexander Mouton, Louisiana, 1842.
Franklin Pierce, New Hampshire, 1842.
John C. Calhoun, South Carolina, 1842.
William C. Preston, South Carolina, 1842.
Samuel Prentiss, Vermont, 1842.
Ruel Williams, Maine, 1843.
William Sprague, Rhode Island, 1844.
Silas Wright, jr., New York, 1844.
Nathaniel P. Tallmadge, New York, 1844.
William R. King, Alabama, 1844.
Robert J. Walker, Mississippi, 1845.
Levi Woodbury, New Hampshire, 1845.
James Buchanan, Pennsylvania, 1845.
Daniel Elliott Huger, South Carolina, 1845.
George McDuffie, South Carolina, 1846.

William H. Haywood, North Carolina, 1846.
Lewis Cass, Michigan, 1848.
John J. Crittenden, Kentucky, 1848.
Walter T. Colquitt, Georgia, 1848.
Ambrose H. Sevier, Arkansas, 1848.
Arthur P. Bagby, Alabama, 1848.
John M. Clayton, Delaware, 1849.
Reverdy Johnson, Maryland, 1849.
Daniel Webster, Massachusetts, 1850.
Thomas Corwin, Ohio, July, 1850.
Jefferson Davis, Mississippi, 1851.
J. McPherson Berrien, Georgia, 1852.
Henry Clay, Kentucky, 1852.
Henry Stuart Foote, Mississippi, 1852.
R. Barnwell Rhett, South Carolina, 1852.
Solon Borland, Arkansas, 1853.
William R. King, Alabama, 1853.
Pierre Soulé, Louisiana, 1853.
Robert F. Stockton, New Jersey, 1853.
Truman Smith, Connecticut, 1854.
Edward Everett, Massachusetts, June 1, 1854.
Hannibal Hamlin, Maine, January 7, 1857.
Asa Biggs, North Carolina. 1858.
Hannibal Hamlin, Maine, 1861.
Simon Cameron, Pennsylvania, March, 1861.
Salmon P. Chase, Ohio, March 6, 1861.
James F. Simmons, Rhode Island, 1862.
William Pitt Fessenden, Maine, 1864.
James A. Bayard, Delaware, 1864.
James Harlan, Iowa, May 15, 1865.
Daniel Clark, New Hampshire, 1866.
James Guthrie, Kentucky, February, 1868.
Reverdy Johnson, Maryland, June 10, 1868.
James W. Grimes, Iowa, December 6, 1869.
Charles D. Drake, Missouri, December 19, 1870.
Alexander Caldwell, Kansas, March 24, 1873.
Henry Wilson, Massachusetts, 1873.
Eugene Casserly, California, 1873.
Adelbert Ames, Mississippi, 1874.
Lot M. Morrill, Maine, July 7, 1876.
John Sherman, Ohio, March 8, 1877.
Simon Cameron, Pennsylvania, March 3, 1877.
Isaac P. Christiancy, Michigan, 1879.
John B. Gordon, Georgia, 1880.
Samuel J. Kirkwood, Iowa, 1881.
James G. Blaine, Maine, 1881.
William Windom, Minnesota, 1881.
Thomas C. Platt, New York, May 16, 1881.
Roscoe Conkling, New York, May 16, 1881.
Henry M. Teller, Colorado, 1882.
Thomas F. Bayard, Delaware, 1885.
Augustus H. Garland, Arkansas, March 6, 1885.
L. Q. C. Lamar, Mississippi, March 6, 1885.
Howell E. Jackson, Tennessee, April 14, 1886.
Jonathan Chace, Rhode Island, April 9, 1889.
John H. Reagan, Texas, June 10, 1891.
George F. Edmunds, Vermont, October 31, 1891.

CLERKS.

JANUARY 11, 1882, a proposition was made to allow those Senators who were not chairmen of committees to employ a clerk at an annual salary of twelve hundred dollars, these salaries to be paid from the contingent fund of the Senate. The resolution was defeated by vote of 20 to 28 in the following June. At the opening of the next Congress, December 10, 1883, Mr. Butler submitted a resolution to allow each Senator not chairman of a committee, a clerk at one thousand dollars per annum, to be paid out of the contingent fund. The resolution was agreed to January 23, 1884, by a vote of 30 to 13, but reconsidered on the same day, and the resolution referred to the Committee on Contingent Expenses. That committee, on the following day, reported an amended resolution, allowing each Senator not a chairman of a committee to employ a clerk during the session at $6 per day, to be paid from the contingent fund. In this form the resolution was agreed to by a vote of 35 to 19.

Several attempts have been made to relieve the contingent fund of this charge by making the salaries of these clerks an item in the legislative appropriation bill. This has always been successfully resisted by the House. They are still paid from the contingent fund.

At the close of the second session of the Fiftieth Congress a proposition was made to continue the *per diem* to Senators' clerks through the recess. The resolution was not acted on.

In one case where a Senator had met with an accident disabling him permanently, an annual clerk was granted him, payable from the contingent fund.

1st sess. 47th Cong., J. of S., 175.] JANUARY 11, 1882.

Mr. Brown submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That each Senator who does not, as chairman of a committee, have a clerk, be, and is hereby, authorized to employ a clerk at a salary of $1,200 per annum, said salaries to be paid out of the contingent fund of the Senate. And in case the clerk of any chairman of a committee now receives less than $1,200 per annum, the salary of such clerk shall in future be $1,200 per annum.

[See Cong. Rec., 1st sess. 47th Cong. 348.]

Ib., 815.] JUNE 12, 1882.

On motion by Mr. Brown,

The Senate proceeded to consider the resolution submitted by him January 11, 1882, authorizing each Senator who is not a chairman of a committee to appoint a clerk at a salary of $1,200 per annum.

On motion by Mr. Brown to amend the resolution,

Pending debate,

The President *pro tempore* announced that the morning hour had expired, etc.

Ib., 819.] JUNE 13, 1882.

The Senate resumed the consideration of the resolution submitted by Mr. Brown January 11, 1882, authorizing each Senator who is not a chairman of a committee to appoint a clerk at a salary of $1,200 per annum; and the amendment proposed by Mr. Brown having been agreed to,

On the question to agree to the resolution as amended,

It was determined in the negative, { Yeas ..... 20 / Nays 28

[For the debate see Cong. Rec., 1st sess. 47th Cong., pp. 4774–4776 and 4814–4815.]

1st sess. 48th Cong., J. of S., 67.] DECEMBER 10, 1883.

Mr. Butler submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That each Senator, except the chairmen of standing or select committees of the Senate, shall be entitled to a clerk or secretary at a salary of $1,000 annually, the same to be paid out of the contingent fund of the Senate.

Ib., 209.] JANUARY 23, 1884.

On motion by Mr. Butler, the Senate proceeded to consider the resolution submitted by him December 10, 1883, as follows:

Resolved, That each Senator, except chairmen of standing or select committees of the Senate, shall be entitled to a clerk or secretary at a salary of $1,000 annually, the same to be paid out of the contingent fund of the Senate; and

On the question to agree thereto,

It was determined in the affirmative, { Yeas ..... 30 / Nays 13

On motion by Mr. Butler,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the resolution was agreed to.

On motion by Mr. Ransom that the Senate reconsider its vote agreeing to the foregoing resolution,

It was determined in the affirmative; and,

On motion by Mr. Butler,

Ordered, That it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

[Cong. Rec., 1st sess. 48th Cong., 593.]

Ib., 212.] JANUARY 24, 1884.

Mr. Jones, of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution submitted by Mr. Butler December 10, 1883, providing that each Senator, not the chairman of a standing or select committee of the Senate, shall be entitled to employ a clerk, reported it with an amendment.

The Senate proceeded, by unanimous consent, to consider the said resolution; and the reported amendment having been agreed to, on the question to agree to the resolution as amended, as follows:

Resolved, That each Senator, except the chairman of standing or select committees, may appoint a clerk, to serve during the sessions of the Congress, who shall perform such clerical work as shall be assigned by the Senator appointing him in aid of the discharge of his official duties, and shall be paid out of the contingent fund of the Senate at the rate of $6 a day.

It was determined in the affirmative, { Yeas ..... 35 / Nays 19

[The names are omitted.]

So the resolution was agreed to.

2d sess. 50th Cong., J. of S., 568.] MARCH 13, 1889.

Mr. Teller submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay the per diem clerks to the committees of the Senate and the clerks of the Senators, during the coming recess, out of the contingent fund of the Senate, the per diem now allowed by law during sessions.

ZEBULON B. VANCE.

2d sess. 50th Cong., J. of S., 575.] MARCH 28, 1889.

Mr. Jones, from Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. Brown, on the 18th instant, to authorize the Select Committee on Woman Suffrage to sit during the recess of the Senate, reported it with an amendment.

The Senate proceeded, by unanimous consent, to consider the resolution; and the reported amendment having been agreed to,

The resolution as amended was agreed to, as follows:

Resolved, That authority is hereby given to Zebulon B. Vance, a Senator from North Carolina, to employ a clerk during the recess of the Senate, and the Secretary of the Senate is hereby authorized and directed to pay such clerk the usual per diem compensation out of the contingent fund of the Senate.

[The resolution was introduced March 18 (J. of S., 575) by Mr. Brown. The following are the remarks of Mr. Jones, who reported the resolution from the committee (Cong. Rec. Vol. 21, Pt. 1, 58).]

Mr. JONES, of Nevada. "This resolution was introduced without the knowledge or request of the Senator from North Carolina [Mr. Vance]; but taking into consideration the fact that he has of late been stricken with a great calamity to him personally; that he has lost the sight of one of his eyes, and that using the other might endanger the sight of the remaining eye and leave him in total darkness, the committee thought it was justice, and that it was exactly the thing the Senate ought to do, to permit him to have a clerk for his own personal service.

This resolution is a substitute for a resolution introduced by the Senator from Georgia [Mr. Brown], authorizing the Committee on Woman Suffrage to employ a clerk to act during the recess. The Committee on Contingent Expenses thought it better to directly authorize the Senator from North Carolina to himself employ a clerk for his own use and to have it charged to the contingent fund of the Senate.

I hope that the resolution will be passed."

NEWSPAPERS AND STATIONERY.

It seems to have been the practice from the first Congress to supply the Senators with certain newspapers. At first three were furnished, later four and five.

Stationery was furnished without any limit until 1868, when the amount allowed each Senator for newspapers and stationery was limited to $125 for each session. (*vide supra*, p. 140).

1 J. of S., 25.] MAY 13, 1789.

Ordered, That Mr. Langdon, Mr. Strong, and Mr. Carroll be a committee to confer with any committee that may be appointed on the part of the House of Representatives, and report what newspapers the members of the Senate and House of Representatives shall be furnished with at the public expense.

The joint committee reported—

That in their opinion public economy requires that the expenses heretofore incurred by the public of supplying every member of Congress with all the newspapers printed at the seat of Congress should be retrenched in future; but as your committee consider the publication of newspapers to be highly beneficial in disseminating useful knowledge throughout the United States, and deserving of public encouragement, they recommend that each member of Congress be supplied at the public expense with one paper, leaving the choice of the same to each member, and that it be the duty of the Secretary of the Senate and Clerk of the House of Representatives to give the necessary direction to the different printers to furnish each member with such papers as he shall choose.

[The House disagreed to the report, and in the Senate, on the question of concurrence, it was postponed (1 J. of S., 30).]

1 J. of S., 221.] DECEMBER 13, 1790.

Ordered, That the Secretary of the Senate furnish the members of the Senate, from such printers as they may respectively direct, each three newspapers, to be left from time to time during the session at their several places of abode.

[This resolution, with slight variations in form, will be found repeated at nearly every session until the practice was abolished in 1869. The following are examples.]

2 J. of S., 197.] DECEMBER 9, 1795.

Resolved, That each Senator be supplied during the present session with copies of three such newspapers, printed in any of the States, as he may choose, provided that the same be furnished at the rate of the usual annual charge for such papers.

[This resolution was repeated annually until 1806.]

4 J. of S., 106.] DECEMBER 1, 1806.

[The above resolution, to which was added] *And provided also*, That if any Senator shall choose to take any newspapers other than daily papers he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

2d sess. 18th Cong., J. of S., 5.] DECEMBER 6, 1824.

[The usual resolution was further altered by the addition that the papers should be paid for out of the contingent fund.]

1st sess. 30th Cong., J. of S. 6.] DECEMBER 7, 1847.

Resolved, That each Senator be supplied during the present session with newspapers, as heretofore, not exceeding the cost of four daily papers.

1st sess. 33d Cong., J. of S., 6.] DECEMBER 6, 1853.

Ordered, That the members of the Senate, from the commencement of the present session, shall be supplied with five daily papers, or publications equivalent thereto, in lieu of the number heretofore ordered.

1st sess. 35th Cong., J. of S., 716.] JUNE 14, 1858.

Mr. Iverson submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of the Senate be directed to inquire into and to prepare during the recess a statement of the amount of stationery, and the cost thereof, which was furnished to each member of the Senate during the last Congress and the present session, and report the same to the Senate at the commencement of the next session; and that he also report the amount of stationery purchased for the use of the Senate at each session of the last and the present Congress.

[Globe, 1st sess. 35th Cong., 3041.]

2d sess. 35th Cong., J. of S., 46.] DECEMBER 13, 1858.

The Vice-President laid before the Senate a report of the Secretary of the Senate, made in compliance with a resolution of the Senate, relative to stationery purchased and supplied to the Senate during the Thirty-fourth and Thirty-fifth Congresses; which was read.

Ordered, That it lie on the table.

Stat. 1868, ch. 8; 15 Stat. L., 35.]

Be it enacted, etc., That the following sums * * * be appropriated * * *.

For stationery, fifteen thousand dollars: *Provided*, That from and after the third day of March, eighteen hundred and sixty-eight, no Senator or Representative shall receive any newspapers except the Congressional Globe, or stationery, or commutation therefor, exceeding one hundred and twenty-five dollars for any one session of Congress.

[Received by the President January 31, 1868, and allowed to become law without his approval.]

PUBLIC DOCUMENTS.

5 J. of S., 518.] APRIL, 18, 1814.

On motion by Mr. Fromentin,

Resolved, That in future all documents printed by order of either House of Congress during each session be bound together at the end of every session and delivered to each member of the Senate.

2d sess. 45th Cong., J. of S., 96.] JANUARY 17, 1878.

Mr. Anthony submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be, and he is hereby authorized to cause to be bound at the Government Printing Office one copy of any public document desired by any Senator for his personal use.

[Cong. Globe, 2d sess. 45th Cong., 374.]

1st sess. 48th Cong., J. of S., 395.] MARCH 6, 1884.

Mr. Hoar submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be directed to make provision that printed copies of all opinions given by Justices of the Supreme Court be furnished to every Senator as soon as filed.

1st sess. 36th Cong., J. of S., 7.] DECEMBER 6, 1859.

Mr. Pearce submitted the following motion; which was considered by unanimous consent and agreed to:

Ordered, That the copies of the Statutes at Large delivered to the Senate in conformity with the eleventh section of the act approved February 5, 1859, "providing for keeping and distributing all public documents," be placed in charge of the Secretary, and that at the commencement of each session he deliver a copy to each Senator, to be returned by him to the Secretary at the close of the session.

IMPEACHMENT OF A SENATOR.

William Blount, a Senator from the State of Tennessee, was tried in 1798 by the Senate, sitting as a court of impeachment, and the Senate decided by vote of 14 to 11 that the Senate had no jurisdiction, a Senator not being a civil officer of the United States.

[The whole case is reported in 3 J. of S., 483 *et seq.*; *cf.* also 5 Ann. of Cong., 2245–2415.]

3 J. of S., 490.] JANUARY 10, 1799.

[The counsel for William Blount filed in the Senate, sitting as a court of impeachment, a plea denying the jurisdiction of the court on the ground that William Blount was not at the time of the commission of the acts alleged a "civil officer of the United States."]

The court proceeded in the debate on the motion made on the 7th instant.

"That William Blount was a civil officer of the United States, within the meaning of the Constitution of the United States, and therefore liable to be impeached by the House of Representatives.

"That as the articles of impeachment charge him with high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled."

And on the question to agree thereto,

It was determined in the negative { Yeas ..... 11 / Nays 14

[The names are omitted.]

On motion,

The court adjourned to 12 o'clock to-morrow.

Ib. 491] JANUARY 11, 1799.

On motion, it was determined that, "The court is of opinion that the matter alleged in the plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of the said impeachment, and that the said impeachment be dismissed.

Yeas 14

Nays 11

[The names are omitted].

[Judgment was rendered accordingly on January 14, 1799.]

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2 J. of S., 440.] FEBRUARY 14, 1798.

A motion was made by Mr. Read that it be

Resolved, That the duty or trust imposed by the Constitution of the United States on a Senator of the United States is not of such a nature as to render a Senator impeachable, or subject to any examination or trial for crimes or offenses alleged to

have been committed against the laws and peace of the United States, other than any citizen of the United States not a member of either House of Congress, and not holding any office under the said States; and

It was agreed that the motion lie for consideration.

Ib., 444.] FEBRUARY 21, 1798.

The Senate proceeded to consider the motion made on the 14th instant by Mr. Read respecting the impeachment of a Senator of the United States.

Whereupon,

On motion of Mr. Sedgwick,

Ordered, That the said motion be referred to the committee appointed the 20th instant to report the measures proper to be adopted relative to the articles of impeachment against William Blount, with an instruction to take the same into consideration and report their opinion as to any amendment thereof (in point of form only), and at what time it will be proper to consider the subject thereof.

[The committe reported in part February 22 (ib., 444), but there was no action on this resolution.]

VOTING.

3d sess. 45th Cong., J. of S., 211.] FEBRUARY 4, 1879.

Mr. Hamlin stated that he was not in the Senate Chamber yesterday when the vote was taken in executive session upon the confirmation of Silas W. Burt to be naval officer at the port of New York from which the injunction of secrecy was removed, and asked, as it would not change the result, the unanimous consent of the Senate to be allowed to have his vote recorded in the negative;

Whereupon,

It was unanimously agreed that the name of Mr. Hamlin be entered upon the list of yeas and nays among those who voted in the negative upon the said confirmation.

1st sess. 21st Cong., J. of S., 269.] APRIL 26, 1830.

Mr. Benton, at his request, before the Senate proceeded to ballot for the last-mentioned committee [on the impeachment of Judge James H. Peck], was excused from voting.

2d sess. 21st Cong., J. of S., 121.] JANUARY 31, 1831.

On motion by Mr. Kane,

Ordered, That Mr. Robinson be excused from voting on the question, guilty or not guilty, on the article of impeachment against James H. Peck, judge of the district court of the United States for the district of Missouri.

On motion by Mr. Benton,

Ordered, That he also be excused from voting on said question.

2d sess. 16th Cong., J. of S., 152.] JANUARY 22, 1821.

Mr. Smith asked to be excused from voting on this and all other questions that may arise on said bill in the Senate, and stated as his reason why he should be excused that, being a purchaser of public lands in Alabama and not residing therein, he was interested in the provisions of the bill,

And on the question to grant the leave asked, it was determined in the negative.

2d sess. 44th Cong., J. of S., 119.] JANUARY 17, 1877.

[Rule] 17. When a Senator being present and declining to vote when his name is called shall be required to assign his reasons therefor and shall so assign them, the presiding officer shall thereupon submit the question to the Senate: "Shall the Senator, for the reasons assigned by him, be excused from voting?" which shall be decided without debate. And these proceedings shall be had after the roll shall have been called and before the result of the vote is announced; and any further proceedings by the Senate in reference thereto shall be after such announcement.

3d sess. 34th Cong., J. of S., 387.] MARCH 5, 1857.

On motion by Mr. Butler, to be excused from serving on any of the committees of the Senate,

It was determined in the negative.

[The following is the report of the Globe, 3d. sess. 34th Cong., App., 383]:

Mr. Butler. I ask the Senate to excuse me from serving on any committee. I have been here for eleven years, and I think I have now a right to ask leave to go on the retired list.

The Vice-President. Is the proposition made in the form of a motion?

Mr. Bright. I move that the honorable Senator from South Carolina be excused from service on all committees.

The motion was not agreed to.

INTERRUPTION IN DEBATE.

1st sess. 43d. Cong., J. of S., 183.] JANUARY 26, 1874.

Mr. Morrill, of Vermont, submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Rules be instructed to inquire into the expediency of reporting a rule for the adoption of the Senate that it shall not be in order for any Senator to be interrupted while speaking, even with his own consent, unless interrupted on a point of order or to correct an erroneous statement of facts or on account of some personal reference.

Ib., 247.] FEBRUARY 13, 1874.

On motion by Mr. Hamlin,

Ordered, That the Select Committee on the Revision of the Rules be discharged from the further consideration of the resolution of January 26, 1874, directing the said committee to inquire into the expediency of reporting a rule that no Senator shall be interrupted while speaking in debate.

[Cong. Rec., 1st. sess. 43d Cong., 1464, 1465.]

QUALIFICATION WITHOUT CREDENTIALS.

In a few instances where, for one reason or another, the credentials of a Senator-elect have not reached the Senate in due season, the Senator has been sworn upon his statement that he has been duly elected. The credentials in these cases have been presented later.

DAVID BARTON.

2d sess. 18th Cong., J. of S., 271.] MARCH 4, 1825.

The President laid before the Senate a letter from the Hon. David Barton, communicating a letter addressed to him from the clerk of the House of Representatives of the State of Missouri, informing him of his reëlection as a Senator of the United States for the term of six years commencing this day.

The letter was read; and

On motion

The oath prescribed by law was administered to Mr. Barton, and he took his seat in the Senate.

JOSIAH S. JOHNSTON.

Spec. sess. 18th Cong., J. of S., 271.] MARCH 4, 1825.

Mr. Benton submitted a letter addressed to Hon. Josiah S. Johnston by H. Johnson, whom he stated to be the governor of Louisiana, informing him of his reëlection as a Senator of the United States.

The letter was read; and

On motion by Mr. Benton,

The oath prescribed by law was administered to Mr. Johnston, and he took his seat in the Senate.

HUGH LAWSON WHITE.

1st sess. 24th Cong., J. of S., 5.] DECEMBER 7, 1835.

The Hon. Hugh Lawson White stated that by a recent vote of the Legislature of the State of Tennessee he was appointed a Senator for the term of six years from the 4th of March last, and that he had omitted to bring with him the usual credentials.

The oath prescribed by law was then administered to Mr. White, and he took his seat in the Senate.

[December 8, 1835, William R. King, of Alabama, made a similar statement and was sworn.]

[G. and S. Reg. vol. 12, pp. 2, 3.]

JOHN SLIDELL.

1st sess. 33d Cong., J. of S., 6.] DECEMBER 5, 1853.

Mr. Benjamin stated that the Hon. John Slidell had been elected a Senator in place of the Hon. Pierre Soulé, resigned, but that his credentials had not yet been received; whereupon,

On motion by Mr. Benjamin, the oath prescribed by law was administered to Mr. Slidell, and he took his seat in the Senate.

[The credentials were presented December 27. (Ib., 66).]

JOHN J. CRITTENDEN AND ANDREW P. BUTLER.

1st sess. 34th Cong., J. of S., 5.] DECEMBER 3, 1855.

The Hon. Jesse D. Bright, President of the Senate, *pro tempore*, resumed the chair.

Mr. Clayton stated that the Hon. John J. Crittenden had been elected a Senator by the legislature of Kentucky, and had expected that his credentials would have been forwarded to the seat of Government.

Whereupon,

On motion by Mr. Clayton,

The oath prescribed by law was administered to Mr. Crittenden, and he took his seat in the Senate.

Mr. Evans stated that the Hon. Andrew P. Butler had received the credentials of his election as a Senator by the legislature of South Carolina; but from accident they were not then in his possession.

Whereupon,

On motion by Mr. Evans,

The oath prescribed by law was administered to Mr. Butler, and he took his seat in the Senate.

REVISION OF REMARKS.

Mr. Call, in revising some remarks made in the Senate February 20, 1890, made some material alterations and insertions. A resolution was offered declaring this a breach of the privilege of the Senate. This was referred to the Committee on Privileges and Elections; which reported March 10 an order to strike out of the permanent edition of the Record the words inserted and to publish the speech as actually delivered. This order was passed March 12. On the 11th the Committee on Rules were instructed to report a rule defining the extent to which remarks might be revised before publication in the Record.

1st sess. 51st Cong., J. of S., 134.] FEBRUARY 24, 1890.

Mr. Chandler arose to a question of privilege, and submitted the following resolution; which was ordered to be printed:

Whereas during the debate in the Senate on Thursday, February 20, 1890, upon the resolution directing the Attorney-General to transmit to the Senate any information in his possession with reference to the recent assassination at Quincy, Fla., of W. B. Saunders, United States deputy marshal for the district of Florida, Wilkinson Call, Senator from the State of Florida, uttered the following language:

"That is the feeling which in the hearts of desperate men leads to lawless acts. That is the feeling relative to the outraging of these poor women for which the Sen-

ator from New Hampshire is personally responsible. The blood of these people rests upon him. The destruction of the happiness of these households is his, and not that of these miserable men who are the emissaries behind him."

And whereas the said Wilkinson Call, Senator from Florida, when the report of the said language uttered by him was submitted to him by the Official Reporter of the Senate for such corrections as were allowable by the rules and customs of the Senate, made alterations in said report as follows:

By striking out the words "of these poor women" and inserting the words "and murder of hundreds of women and children in the Southern States," and by striking out the words "behind him" and inserting the words "of these horrid crimes," and by adding at the end thereof the paragraph following:

"The blood of Saunders, if the evidence shall show his death was in anyway connected with the prosecution of the United States courts, will rest on his conscience.

"The shrieking ghosts of the hundreds of outraged and murdered women and children, the victims of the wild lust and passions of a race who owe all that they know of religion and civilization to the Southern white people, and not to the Senator from New Hampshire, will disturb his sleeping and his waking hours. Like Banquo's ghost, 'It will not down, and the ocean will not wash his blood-stained hands from the guilt of the rape and murder of these tender white women and children.'"

And whereas neither the words inserted nor the words of the paragraph added as above recited were uttered by the said Senator from Florida during said debate, but were, in fact, subsequently written by him into the report aforesaid and caused by him to be published in the Congressional Record of February 21 as a part of his speech made during said debate; and,

Whereas the insertion of the words and the addition of the paragraphs aforesaid, and the publication of the same in the Congressional Record, were not allowable by any rule or custom of the Senate, so that the Senator from Florida has grossly abused in an improper and dangerous manner the right of revision by the Senators of their remarks and debate:

Resolved, That the action of Wilkinson Call, Senator from Florida, in changing the report of his remarks in the Senate on the 20th day of February, 1890, by striking out certain words from the paragraph beginning "That is the feeling which in the hearts of desperate men leads to lawless acts" and by inserting in their place certain other words not uttered by him in the Senate, and also by adding next to the paragraph above mentioned a further paragraph composed of words not uttered by him in the Senate, constituted a breach of privilege for which the said Senator is hereby censured; and it is ordered that the words so inserted and the paragraph so added be stricken from the report in the Congressional Record.

[For the debate see Cong. Rec., 1st sess. 51st Cong., 1640–1642.]

Ib., 139.] FEBRUARY 25, 1890.

The Vice-President laid before the Senate the resolution yesterday submitted by Mr. Chandler relative to the action of Mr. Call and the revision of the report of his remarks in the Senate on the 20th instant; and,

On motion by Mr. Sherman,

Ordered, That it be referred to the Committee on Privileges and Elections.

On motion by Mr. Hoar,

Ordered, That the Public Printer be directed not to stereotype for the permanent Record the proceedings of the Senate of the 20th instant until the further order of the Senate.

[For the debate see Cong. Rec., 1st sess. 51st Cong., 1671, 1672.]

Ib., 159.] MARCH 10, 1890.

Mr. Hoar, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Chandler February 24, 1890, relative to the action of Mr. Call in the revision of his remarks in the Senate February 20, 1890, reported the following order:

Ordered, That in all future editions of the Congressional Record the following words be stricken from the report of the remarks of Mr. Call, the Senator from the State of Florida, in the Senate, Thursday, February 20, 1890, as heretofore published in the Record, namely:

"And murders of hundreds of women and children in the Southern States * * * of these horrid crimes."

"The blood of Saunders, if the evidence shall show his death was in anyway connected with the prosecutions in the United States courts, will rest on his conscience. The shrieking ghosts of the hundreds of outraged and murdered women and children, the victims of the wild lusts and passions of a race who owe all that they know of religion and civilization to the Southern white people, and not to the Senator from New Hampshire, will disturb his sleeping and waking hours. Like

Banquo's ghost, it will not down, and the ocean will not wash his blood-stained hands from the guilt of the rape and murder of these tender white women and children"—

Said words not having been actually spoken by him; and that the passage of his remarks in which said words were inserted be published in such future editions as originally reported by the Official Stenographer.

[Cong. Rec., 1st sess., 51st Cong., 2068. There was no debate.]

1st sess. 51st Cong., J. of S., 160.] MARCH 10, 1890.

On motion by Mr. Hoar,

Ordered, That the Committee on Rules report for the consideration of the Senate a rule defining the extent to which Senators shall be at liberty to revise remarks made by them in the Senate for publication in the Record.

1st sess. 51st Cong., J. of S., 163.] MARCH 11, 1890.

On motion by Mr. Hoar,

The Senate proceeded to consider the order yesterday reported by him from the Committee on Privileges and Elections, that in future editions of the Congressional Record certain words be stricken from the reported remarks of Mr. Call, February 20, 1890; and

After debate,

On the question to agree thereto,

The yeas were 27, and the nays were 11.

On motion by Mr. Hoar,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative are:

[The names are omitted.]

The number of Senators voting not constituting a quorum,

On motion by Mr. Sherman, at 5 o'clock and 10 minutes p. m.,

The Senate adjourned.

[Cong. Rec., 1st. sess. 51st Cong., 2111–2124.]

1st sess. 51st Cong., J. of S., 165.] MARCH 12, 1890.

On motion by Mr. Hoar,

The Senate resumed the consideration of the order reported by him on the 10th instant from the Committee on Privileges and Elections, that in future editions of the Congressional Record certain words be stricken from the report of the remarks of Mr. Call, February 20, 1890; and

On the question to agree thereto,

It was determined in the affirmative, { Yeas ..... 36 / Nays 14

So the order was agreed to.

[See Cong. Rec., 1st. sess. 51st Cong., 2143, 2144.]

1st sess. 51st Cong., J. of S., 392.] JUNE 25, 1890.

Mr. Ingalls submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the Committee on Privileges and Elections be directed to inquire into the publication of the personal explanation of Hon. Wilkinson Call in the Congressional Record of this date, and report whether the same is in accordance with the rules, regulations, and practice of the Senate; and that the said explanation be withheld from the permanent edition of the Record until the further order of the Senate.

[For the debate see Cong. Rec., 1st sess. 51st Cong., 6468–6472. The "personal explanation" referred to appeared in Cong. Rec., ib., 5475.]

1st sess. 51st Cong., J. of S., 438.] JULY 25, 1890.

Mr. Sherman submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Committee on Printing is directed to report to the Senate whether any abuses exist in printing matter in the Congressional Record that ought not to be printed therein, and to report such a bill or regulation as will limit such printing to the actual proceedings in the two Houses.

That the Committee on Printing also inquire and report whether it is expedient to edit the debates in Congress by the omission of such parts as are immaterial and such papers as are printed as public documents.

[The debate is reported Cong. Rec., 1st sess., 51st Cong., 7689–7690.]

LIMITATION OF DEBATE.

1st sess. 31st Cong., J. of S., 482.] JULY 27, 1850.

Mr. Douglas submitted the following motion for consideration:

Resolved, That the following be, and the same is, adopted as a standing rule of the Senate.

That the previous question shall be admitted when demanded by a majority of the members of the Senate present, and its effect shall be to put an end to all debate, and bring the Senate to a direct vote, first, upon a motion to commit, if such motion shall have been made; and if this motion does not prevail, then, second, upon amendments reported by a committee, if any; then, third, upon pending amendments; and finally, where such questions shall, or when none shall have been offered, or when none may be pending, then it shall be upon the main question or questions leading directly to a final decision of the subject matter before the Senate. On a motion for the previous question, and prior to the seconding of the same, a call of the Senate shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question. On a previous question there shall be no debate. All incidental questions arising after a motion shall have been made for the previous question and pending such motion shall be decided, whether on appeal or otherwise, without debate.

[August 28. The resolution was laid on the table (ib., 588).]

2d sess. 37th Cong., J. of S., 370.] APRIL 4, 1862.

Mr. Hale submitted the following resolution for consideration:

Resolved, That the following be added to the rules of the Senate:

The Senate may, at any time during the present rebellion, by a vote of a majority of the members present, fix a time when debate on any matter pending before the Senate shall cease and terminate; and the Senate shall, when the time fixed for terminating debate arrives, proceed to vote without debate on the measure and all amendments pending and that may be offered.

1st sess. 38th Cong., J. of S., 601.] JUNE 21, 1864.

Mr. Wade submitted the following resolution for consideration:

Resolved, That during the remainder of the present session of Congress no Senator shall speak more than once on any one question before the Senate; nor shall such speech exceed ten minutes, without leave of the Senate expressly given; and when such leave is asked it shall be decided by the Senate without debate, and it shall be the duty of the President to see that this rule is strictly enforced.

3d sess. 40th Cong., J. of S., 256.] FEBRUARY 13, 1869.

Mr. Pomeroy submitted the following resolution; which was ordered to be printed:

Resolved, That the following be added to the standing rules of the Senate:

Rule —. While the motion for the previous question shall not be entertained in the Senate, yet the Senators, by a vote of three-fifths of the members, may determine the time when debate shall close upon any pending proposition, and then the main question shall be taken by a vote of the Senate in manner provided for under existing rules.

2d sess. 41st Cong., J. of S., 347.] MARCH 10, 1870.

Mr. Hamlin submitted the following resolution for consideration:

Resolved, That whenever any question shall have been under consideration for two days it shall be competent, without debate, for the Senate, by a two-thirds majority, to fix a time, not less than one day thereafter, when the main question shall be taken, but each Senator who shall offer an amendment shall be allowed five minutes to speak upon the same and one Senator a like time in reply.

Ib., 412.] MARCH 25, 1870.

Mr. Wilson submitted the following motion for consideration:

Ordered, That the Select Committee on Rules be instructed to consider the expediency of adopting a rule, for the remainder of the session, providing that whenever any bill has been considered for two days the question on ordering it to a third reading may be ordered by a two-thirds vote of the Senators present and voting.

Ib., 465.] APRIL 7, 1870.

The Senate next proceeded to consider [the above]; and

On motion by Mr. Edmunds,

Ordered, That the said resolution be passed over.

Ib., 492.] APRIL 14, 1870.

The Senate next resumed the consideration of the resolution submitted by Mr. Wilson on the 25th of March last, instructing the Select Committee on the Revision of the Rules to consider the expediency of adopting a rule for the remainder of the session fixing a time when the question on ordering a bill to a third reading shall be put; and

The resolution was agreed to.

2d sess. 41st Cong., J. of S., 778.] JUNE 9, 1870.

Mr. Pomeroy submitted the following resolution for consideration; which was ordered to be printed.

Resolved, That the thirtieth rule of the Senate be amended by adding thereto the following:

And any pending amendment to an appropriation bill may be laid on the table without affecting the bill.

It shall be in order at any time when an appropriation bill is under consideration, by a two-thirds vote, to order the termination of debate at a time fixed in respect to any item or amendment thereof then under consideration; which order shall be acted upon without debate.

2d sess. 42d Cong., J. of S., 472.] APRIL 1, 1872.

Mr. Pomeroy submitted the following resolution for consideration:

Resolved, That upon any amendment to general appropriation bills remarks upon the same by any one Senator shall be limited to five minutes.

2d sess. 42d Cong., J. of S., 614.] APRIL 26,

Mr. Scott submitted the following resolution; which was ordered to be printed:

Resolved, That during the present session it shall be in order, pending an appropriation bill, to move to confine debate on the pending bill and amendments thereto to five minutes by any Senator on the pending motion, and the motion to limit debate shall be decided without debate.

Ib., 630.] APRIL 29, 1872.

On motion by Mr. Scott,

The Senate proceeded to consider the resolution submitted by him on the 26th instant, to confine debate on appropriation bills and amendments thereto for the remainder of the session; and the resolution having been modified by Mr. Scott to read as follows:

Resolved, That during the present session it shall be in order, pending an appropriation bill, to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and the motion to limit debate shall be decided without debate.

After debate,

On motion by Mr. Vickers, to amend the resolution by inserting after the word "thereto" the words *germane to the subject-matter of the bill.*

[Several proposed amendments to this part of the resolution are omitted.]

On motion by Mr. Edmunds, to amend the resolution by adding thereto the following:

And no amendment to any such bill making legislative provisions other than such as directly relate to the appropriations contained in the bill shall be received:

It was determined in the affirmative, { Yeas ..... 25 / Nays 19

[The names are omitted.]

So the amendment was agreed to.

The resolution having been further amended on motion of Mr. Scott, on the question to agree thereto as amended in the following words:

Resolved, That during the present session it shall be in order to move a recess; and pending an appropriation bill to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motions shall be decided without debate; and no amendment to any such bill making legislative provisions other than such as directly relate to the appropriations contained in the bill shall be received:

It was determined in the affirmative, { Yeas ..... 33 / Nays 13

[The names are omitted.]

So the resolution was agreed to.

3d sess. 42d Cong., J. of S., 615.] MARCH 18, 1873.

Mr. Wright submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the Committee on the Revision of the Rules be instructed to inquire into the propriety of so amending the rules as to provide—

First. That debate shall be confined and be relevant to the subject-matter before the Senate.

Second. That the previous question may be demanded either by a majority vote or in some modified form.

Third. For taking up bills in their regular order on the Calendar; for their disposition in such order; prohibiting special orders, and requiring that bills not finally disposed of when thus called shall go to the foot of the Calendar, unless otherwise directed.

Ib., 616.] MARCH 19, 1873.

On motion by Mr. Wright, that the Senate proceed to the consideration of the resolution submitted by him on the 17th instant instructing the Select Committee on the Revision of the Rules to inquire into the propriety of so amending the rules of the Senate as to confine debate to the subject matter before the Senate, to provide for a previous question, and the order of the consideration of bills on the Calendar, and the disposition thereof;

After debate,

It was determined in the negative, { Yeas ..... 25 / Nays 30

[The names are omitted.]

So the motion to proceed to the consideration of the said resolution was not agreed to.

[Cong. Rec. 3d sess. 42d Cong. (spec. sess.) 113–117.]

Ib., 617.] MARCH 20, 1873.

Mr. Wright submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the following be added to the rules of the Senate:

Rule —. No debate shall be in order unless it relate to, or be pertinent to, the question before the Senate.

Rule —. Debate may be closed at any time upon any bill or measure by the order of two-thirds of the Senators present, after notice of twenty-four hours to that effect.

Rule —. All bills shall be placed upon the Calendar in their order, and shall be disposed of in such order unless postponed by the order of the Senate. All special orders are prohibited, except by unanimous consent; and bills postponed shall, unless otherwise ordered, go to the foot of the Calendar.

Ib., 618.] MARCH 21, 1873.

On motion by Mr. Wright, that the Senate proceed to the consideration of the resolution yesterday submitted by him, providing additional rules for the Senate.

After debate,

Ordered, That the further consideration of the subject be postponed to the first Monday of December next.

[Cong. Rec. 3d sess. 42d Cong., Spec. sess. 135–137.]

1st sess. 43d Cong., J. of S., 532.] MAY 6, 1874.

Mr. Edmunds submitted the following resolution; which was referred to the Select Committee on the Revision of the Rules:

Resolved, That the eleventh rule of the Senate be amended by adding thereto the

following words: *Nor shall such debate be allowed upon any motion to dispose of a pending matter and proceed to consider another. When a question is under consideration, the debate thereon shall be germane to such question or to the subject to which it relates.*

Ib., 578.] MAY 15, 1874.

Mr. Ferry, of Michigan, from the Select Committee on the Revision of the Rules, to whom was referred the resolution submitted by Mr. Edmunds the 6th instant to amend the eleventh rule of the Senate, reported it with an amendment.

2d sess. 43d Cong., J. of S., 128.] JANUARY 18, 1875.

Mr. Morrill, of Maine, submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That during the present session it shall be in order at any time to move a recess, and, pending an appropriation bill, to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motions shall be decided without debate.

Ib., 134.] JANUARY 19, 1875.

The Senate proceeded to consider the resolution yesterday submitted by Mr. Morrill, of Maine, to limit debate on amendments to appropriation bills; and

After debate,

The resolution was agreed to, as follows:

Resolved, That during the present session it shall be in order at any time to move a recess, and, pending an appropriation bill, to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motion shall be decided without debate.

[Cong. Rec. 2d sess. 43d Cong., 569-570.]

1st sess. 44th Cong., J. of S., 243.] FEBRUARY 28, 1876.

Mr. Morrill, of Maine, submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That during the present session it shall be in order at any time to move a recess, and, pending an appropriation bill, to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motion shall be decided without debate.

Ib., 253.] FEBRUARY 29, 1876.

On motion by Mr. Morrill, of Maine,

The Senate proceeded to consider the resolution yesterday submitted by him to confine debate on amendments to appropriation bills; and, having been amended on motion by Mr. Morrill, of Maine,

On motion by Mr. Bayard, to further amend the resolution by adding thereto the following:

But no amendment to an appropriation bill shall be in order which is not germane to such a bill,

After debate,

It was determined in the negative, { Yeas ..... 25 / Nays 28

[The names are omitted.]

So the amendment was not agreed to.

No further amendment being proposed, the resolution as amended was agreed to, as follows:

Resolved, That during the present session it shall be in order at any time to move a recess, and, pending an appropriation bill, to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motions shall be decided without debate.

2d sess. 45th Cong., J. of S., 314] MARCH 20, 1878.

Mr. Windom submitted the following resolution for consideration:

Resolved, That during the present session it shall be in order at any time pending an appropriation bill to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motion shall be decided without debate.

2d sess. 45th Cong., J. of S. 319.] MARCH 21, 1878.

On motion by Mr. Windom,

The Senate proceeded to consider the resolution yesterday submitted by him providing for a limitation of debate on amendments to appropriation bills; and

The resolution was agreed to.

3d sess. 45th Cong., J. of S., 32.] DECEMBER 5, 1878.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That to-day, at 1 o'clock, the Senate will proceed to the consideration of the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings; and this order shall take precedence of special orders or unfinished business, unless otherwise ordered.

[The resolution went over, objection being made.]

3d sess. 45th Cong., J. of S., 114.] JANUARY 14, 1879.

Mr. Anthony submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That on Friday next, at 1 o'clock, the Senate will proceed to the consideration of the Calendar, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

[Cong. Rec. 3d sess. 45th Cong. 427.]

3d sess. 45th Cong., J. of S., 138.] JANUARY 20, 1879.

Mr. Anthony submitted the following resolution, which was considered, by unanimous consent, and agreed to:

Resolved, That at the conclusion of the morning business for each day after this day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past 1 o'clock, and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once, and for five minutes only, unless, upon motion, the Senate should at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

3d sess. 45th Cong., J. of S., 189.] JANUARY 30, 1879.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That the order of the Senate of January 20, 1879, relative to the consideration of bills on the Calendar, shall not be suspended unless by unanimous consent or upon one day's notice.

3d sess. 45th Cong., J. of S., 325.] FEBRUARY 20, 1879.

Mr. Windom submitted the following resolution for consideration:

Resolved, That during the present session it shall be in order at any time pending an appropriation bill to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and such motion shall be decided without debate.

3d sess. 45th Cong., J. of S., 373.] FEBRUARY 25, 1879.

On motion by Mr. Allison,

The Senate proceeded to consider the resolution submitted by Mr. Windom on the 20th instant, to confine debate on amendments to general appropriation bills; and

The resolution was agreed to.

2d sess. 46th Cong., J. of S., 594.] MAY 22, 1880.

The hour of half past 12 o'clock having arrived, the President *pro tempore* asked the Senate to place its construction upon the order of February 5, 1880, and known as the "Anthony rule," and submitted the following proposition: "Does the consideration of the Calendar continue until half past 1 o'clock, notwithstanding the change of the hour of meeting of the Senate?"

3d sess. 46th Cong., J. of S., 244.] FEBRUARY 12, 1881.

On motion by Mr. Morgan,

The Senate proceeded to consider the resolution submitted by him the 10th instant, limiting debate on a motion to proceed to the consideration of a bill or resolution; and having been modified on the motion of Mr. Morgan, the resolution as modified was agreed to, as follows:

Resolved, That for the remainder of the present session, on a motion to take up a bill or resolution for consideration, at the present or at a future time, debate shall be limited to fifteen minutes, and no Senator shall speak to such motion more than once, or for a longer time than five minutes.

3d sess. 46th Cong., J. of S., 234.] FEBRUARY 10, 1881.

Mr. Morgan submitted the following resolution for consideration:

Resolved, That on a motion to take up a bill or resolution for consideration at the present or at a future time debate shall be limited to fifteen minutes, and no Senator shall speak to such motion oftener than once, or for a longer time than five minutes.

1st sess. 47th Cong., J. of S., 446.] MARCH 20, 1882.

On motion of Mr. Anthony, to amend the order of the Senate known as the "Anthony rule," so as to extend the time for the consideration of the Calendar of bills and resolutions until 2 o'clock p. m.,

It was determined in the affirmative.

1st sess. 47th Cong., J. of S., 632.] APRIL 26, 1882.

Mr. Edmunds submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the special rule of the Senate for the consideration of matters on the Calendar under limited debate be, and the same is hereby, abolished.

Mr. Hoar submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the resolve known as the "Anthony rule" shall not hereafter be so construed as to authorize the consideration of any measure under a limitation of debate of five minutes, or to speaking but once by each Senator after objection.

2d sess. 47th Cong., J. of S., 282.] FEBRUARY 3, 1883.

Mr. Hale submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That upon each amendment hereafter offered to the bill entitled "An act to reduce internal revenue taxation," each Senator may speak once for five minutes, and no more.

2d sess. 47th Cong., J. of S., 396.] FEBRUARY 23, 1883.

Mr. Hale submitted the following resolution for consideration:

Resolved, That during the present session it shall be in order at any time pending an appropriation bill to move to confine debate on amendments thereto to five minutes by any Senator on the pending motion, and said motion shall be decided without debate.

1st sess. 48th Cong., J. of S., 354.] FEBRUARY 26, 1884.

Mr. Harris submitted the following resolution; which was referred to the Committee on Rules and ordered to be printed:

Resolved, That the seventh rule of the Senate be amended by adding thereto the following words:

The presiding officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

Mr. Harris submitted the following resolution; which was referred to the Committee on Rules and ordered to be printed:

Resolved, That the eighth rule of the Senate be amended by adding thereto the following words:

All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.

1st sess. 48th Cong., J. of S., 442.] MARCH 19, 1884.

On motion by Mr. Harris,

The Senate proceeded to consider the resolution to amend the eighth rule; and

The resolution was agreed to, as follows:

Resolved, That the eighth rule of the Senate be amended by adding thereto the following words: *All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.*

On motion by Mr. Harris,

The Senate proceeded to consider the resolutions reported from the Committee on Rules on the 7th instant to amend the tenth rule, and having been amended on the motion of Mr. Harris, from the Committee on Rules, by inserting after the words "order" the words *or to proceed to the consideration of other business.*

The resolution as amended was agreed to, as follows:

Resolved, That the tenth rule of the Senate be amended by adding thereto the following words: *And all motions to change such order or to proceed to the consideration of other business shall be decided without debate.*

1st sess. 48th Cong., J. of S., 431.] MARCH 17, 1884.

Mr. Harris, from the Committee on Rules, to which was referred the resolution submitted by him February 26, 1884, to amend the seventh rule of the Senate, reported it without amendment.

The Senate proceeded, by unanimous consent, to consider the said resolution; and

Resolved, That the Senate agree thereto.

Mr. Harris, from the Committee on Rules, to which was referred the resolution submitted by him February 26, 1884, to amend the eighth rule of the Senate, reported it without amendment.

Mr. Harris, from the Committee on Rules, reported the following resolution for consideration:

Resolved, That the tenth rule of the Senate be amended by adding thereto the following words:

And all motions to change such order shall be decided without debate.

2d sess. 48th Cong., J. of S., 359.] FEBRUARY 24, 1885.

Mr. Allison submitted the following order for consideration; which was ordered to be printed:

Ordered, That during the remainder of the present session of the Senate it shall be in order to move at any time that debate on any amendment or all amendments to any appropriation bill then before the Senate be limited to five minutes for each Senator, and that no Senator shall speak more than once on the same amendment in form or substance. The question on such motion shall be determined without debate.

2d sess. 48th Cong., J. of S., 389.] FEBRUARY 26, 1885.

The President *pro tempore* laid before the Senate the order submitted by Mr. Allison on the 24th instant to limit debate to five minutes on amendments to appropriation bills for the remainder of the present session.

On motion by Mr. Plumb,

Ordered, That the further consideration thereof be postponed to to-morrow.

1st sess. 49th Cong., J. of S., 505.] APRIL 1, 1886.

Mr. Ingalls submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That Rule XIII be amended by striking out the words "without debate," in the last sentence of clause 1.

1st sess. 49th Cong., J. of S., 904.] JUNE 14, 1886.

Mr. Edmunds submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That the last paragraph of the first clause of Rule XIII be amended so as to read as follows:

Any motion to reconsider may be laid on the table without affecting the question in reference to which the same is made, and if laid on the table it shall be a final disposition of the motion.

1st sess. 49th Cong., J. of S., 945.] JUNE 21, 1886.

Mr. Frye, from the Committee on Rules, reported the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the last paragraph of clause 1, Rule XIII, is hereby amended by striking out the words "without debate."

Mr. Frye, from the Committee on Rules, to whom were referred the following resolutions, reported adversely thereon:

The resolution submitted by Mr. Ingalls April 1, 1886, to amend clause 1 of Rule XIII of the Senate; and

The resolution submitted by Mr. Edmunds on the 14th instant to amend clause 1 of Rule XIII of the Senate.

Ordered, That they be postponed indefinitely.

2d sess. 49th Cong., J. of S., 387.] FEBRUARY 21, 1887.

Mr. Cameron submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That during the remainder of this session no Senator shall speak on any question more than once, and shall confine his remarks to five minutes' duration.

2d sess. 49th Cong., J. of S., 400.] FEBRUARY 22, 1887.

The President *pro tempore* laid before the Senate the resolution yesterday submitted by Mr. Cameron, limiting debate during the remainder of the session;

When

Mr. Edmunds raised a question of order, viz, that the resolution would change the standing rules of the Senate, of which proper notice had not been given, as required by the fortieth rule; and

The President *pro tempore* sustained the point of order.

1st sess. 50th Cong., J. of S., 315.] FEBRUARY 14, 1888.

Mr. Blackburn submitted the following resolution, which was referred to the Committee on Rules:

Resolved, That it shall not be in order, except by unanimous consent, for the Committee on Appropriations to report to the Senate for consideration or action any general appropriation bill without having had such bill under consideration for a period of ten days or more.

1st sess. 50th Cong., J. of S., 829.] MAY 16, 1888.

Mr. Edmunds submitted the following resolution, which was referred to the Committee on Rules:

Resolved, That paragraph 3 of Rule XVI be amended by adding thereto the following:

Whenever any general appropriation bill originating in the House of Representatives shall be under consideration, it shall be the duty of the Presiding Officer to cause to be stricken out of such bill all provisions therein of a general legislative character other than such as relate to the disposition of the moneys appropriated therein; but such order of the Presiding Officer shall be subject to an appeal to the Senate as in other cases of questions of order.

1st sess. 51st Cong., J. of S., 250.] APRIL 23, 1890.

Mr. Chandler submitted the following resolution; which was referred to the Committee on Rules and ordered to be printed:

Resolved, That the following be adopted as a standing rule of the Senate:

Whenever a bill or resolution reported from a committee is under consideration the Senate may, on motion, to be acted on without debate or dilatory motions, order that on a day, not less than six days after the passage of the order, debate shall cease and the Senate proceed to dispose of the bill or resolution; and when said day shall arrive, at 3 o'clock the vote shall be forthwith taken without debate or dilatory motions upon any amendments to the bill or resolution and upon the passage thereof.

Whenever a quorum of Senators shall not vote on any roll-call the presiding officer at the request of any Senator shall cause to be entered upon the Journal the names of all the Senators present and not voting, and such Senators shall be deemed and taken as in attendance and present as part of the quorum to do business; and declaration of the result of the voting shall be made accordingly.

1st sess. 51st Cong., J. of S., 431.] JULY 16, 1890.

Mr. Allison submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That during the remainder of the present session of Congress it shall be in order to move at any time that debate on any amendment or all amendments to any appropriation bill then before the Senate be limited to five minutes for each Senator, and that no Senator shall speak more than once on the same amendment in form or substance. The question on such motion shall be determined without debate.

1st sess. 51st Cong., J. of S., 449.] AUGUST 1, 1890.

Mr. Blair submitted the following resolution; which was ordered to be printed:

Resolved, That the Committee on Rules be instructed to report a rule within four days providing for the incorporation of the previous question or some method for limiting and closing debate in the parliamentary procedure of the Senate.

1st sess. 51st Cong., J. of S., 450.] AUGUST 9, 1890.

The President *pro tempore* laid before the Senate the resolution yesterday submitted by Mr. Blair, as follows:

Resolved, That the Committee on Rules be instructed to report a rule within four days providing for the incorporation of the previous question of some method for limiting and closing debates in the parliamentary procedure of the Senate.

Ordered, That it be referred to the Committee on Rules.

[Cong. Rec., 1st sess. 51st Cong., 8048–8050.]

1st sess. 51st Cong., J. of S., 460.] AUGUST 9, 1890.

Mr. Hoar submitted the following resolution; which was referred to the Committee on Rules and ordered to be printed:

Resolved, That the rules of the Senate be amended by adding as follows:

When any bill or resolution shall have been under consideration for a reasonable time, it shall be in order for any Senator to demand that debate thereon be closed. If such demand be seconded by a majority of the Senators present, the question shall forthwith be taken thereon without further debate, and the pending measure shall take precedence of all other business whatever. If the Senate shall decide to close debate, the question shall be put upon the pending amendments, upon amendments of which notice shall then be given, and upon the measure in its successive stages, according to the rules of the Senate, but without further debate, except that every Senator who may desire shall be permitted to speak upon the measure not more than once, and not exceeding thirty minutes.

After such demand shall have been made by any Senator, no other motion shall be in order until the same shall have been voted upon by the Senate, unless the same shall fail to be seconded.

After the Senate shall have decided to close debate, no motion shall be in order but a motion to adjourn or to take a recess, when such motion shall be seconded by a majority of the Senate. When either of said motions shall have been lost, or shall have failed of a second, it shall not be in order to renew the same until one Senator shall have spoken upon the pending measure or one vote on the same shall have intervened.

1st sess. 51st Cong., J. of S., 463.] AUGUST 12, 1890.

Mr. Edmunds submitted the following order for consideration; which was ordered to be printed:

Ordered, That during the consideration of House bill 9416 entitled "An act to reduce the revenue and equalize duties on imports, and for other purposes," no Senator shall speak more than once, and not longer than five minutes, on or in respect of any one item in said bill or any amendment proposed thereto, without leave of the Senate, such leave to be granted or denied without debate and without any other motion or proceeding other than such as relates to procuring a quorum when it shall appear on a division, or on the yeas and nays being taken, that a voting quorum is not present; and until said bill shall have been gone through with to the point of a third reading no general motion in respect of said bill other than to take it up shall be in order.

All appeals pending the matter aforesaid shall be determined at once, and without debate.

Notice is hereby given, pursuant to Rule XL, that the foregoing order will be offered for adoption in the Senate.

It is proposed to suspend for the foregoing stated purpose the following rules, namely: V, VIII, IX, X, XII, XVIII, XIX, XXII, XXVII, XXVIII, XXXV, and XL.

1st sess. 51st Cong., J. of S., 463.] AUGUST 12, 1890.

Mr. Blair submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the following rule be adopted to fix the limit of debate, namely:

Rule —. When a proposition has been under debate two days and not less than four hours, which shall be determined by the presiding officer without debate, it shall be in order to move the previous question, unless the Senate shall otherwise fix the time when debate shall cease and the vote be taken; and in any case arising under this rule the Senator in charge of the measure shall have one hour in which to close the debate.

During the last fourteen days preceding the time fixed by law or by concurrent

resolution passed by the Senate for the end of the session, a majority of the Senate may close the debate at any time, subject to the right of the Senator in charge of the measure; and any motion for the previous question, or to limit debate and to fix the time for the vote to be taken, shall cease in one hour and be subject to the Anthony rule.

1st sess. 51st Cong., J. of S., 463.] AUGUST 12, 1890.

Mr. Quay submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (the tariff bill) and general appropriation bills, bills relating to public buildings and public lands, and Senate or concurrent resolutions.

Resolved, That the consideration of all bills other than such as are mentioned in the foregoing resolution is hereby postponed until the session of Congress to be held on the first Monday in December, 1890.

Resolved, That the vote on the pending bill and all amendments thereto shall be taken on the 30th day of August instant at 2 o'clock p. m., the voting to continue without further debate until the consideration of the bill and the amendments is completed.

1st sess. 51st Cong., J. of S., 465.] AUGUST 13, 1890.

The President *pro tempore* laid before the Senate the order and resolutions yesterday submitted, as follows:

Order by Mr. Edmunds, to limit debate on the pending bill to reduce the revenue and equalize duties on imports and the amendments proposed thereto.

Resolution by Mr. Blair, to amend the rules so as to fix a limit to debate.

Resolution by Mr. Quay, prescribing the measure to be considered during the remainder of the present session; and,

Ordered, That they be referred to the Committee on Rules.

1st sess., 51st Cong., J. of S., 471.] AUGUST 16, 1890.

Mr. Quay gave notice in writing, pursuant to Rule XL, that he would offer the following orders for adoption by the Senate:

Ordered, 1. That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (H. R. 9416); conference reports, general appropriation bills, pension bills, bills relating to the public lands, to the United States courts, to the postal service, to agriculture and forestry, to public buildings, and Senate or concurrent resolutions.

Ordered, 2. That the consideration of all bills other than such as are mentioned in the foregoing order is hereby postponed until the session of Congress to be held on the first Monday of December, 1890.

Ordered, 3. That a vote shall be taken on the bill (H. R. 9416) now under consideration in the Senate and upon amendments then pending, without further debate, on the 30th day of August, 1890, the voting to commence at 2 o'clock p. m. on said day and continue on that and subsequent days, to the exclusion of all other business, until the bill and pending amendments are finally disposed of.

And that it was proposed to modify, for the foregoing stated purpose, the following rules, namely: VII, VIII, XIX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL.

Ordered, That the notice, with the proposed orders, be printed.

1st sess. 51st Cong., J. of S., 472.] AUGUST 18, 1890.

Mr. Quay, pursuant to notice, submitted the following resolution; which was ordered to be printed:

Resolved, That the following orders be adopted for the government of the Senate during the present session of Congress:

Ordered, 1. That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (H. R. 9416), conference reports, general appropriation bills, pension bills, bills relating to the public lands, to the United States courts, to the postal service, to agriculture and forestry, to public buildings, and Senate or concurrent resolutions.

Ordered, 2. That the consideration of all bills other than such as are mentioned in the foregoing order is hereby postponed until the session of Congress to be held on the first Monday of December, 1890.

Ordered, 3. That a vote shall be taken on the bill (H. R. 9416) now under consideration in the Senate and upon amendments then pending, without further debate, on the 30th day of August, 1890, the voting to commence at 2 o'clock p. m. on said day and to continue on that and subsequent days, to the exclusion of all other business, until the bill and pending amendments are finally disposed of.

For the foregoing stated purpose the following rules, namely, VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, XL, are modified.

1st sess. 51st Cong., J. of S., 476.] AUGUST 20, 1890.

The President *pro tempore* laid before the Senate the resolution submitted by Mr. Quay on the 18th instant, as follows:

Resolved, That the following orders be adopted for the government of the Senate during the present term of Congress:

Ordered, 1. That during the present session of Congress the Senate will not take up for consideration any legislative business other than the pending bill (H. R. 9416), conference reports, general appropriation bills, pension bills, bills relating to public lands, United States courts, the postal service, to agriculture and forestry, to public buildings, and Senate or concurrent resolutions.

Ordered, 2. That the consideration of all bills other than such as are mentioned in the foregoing order is hereby postponed until the session of Congress to be held on the first Monday of December, 1890.

Ordered, 3. That a vote shall be taken on the bill (H. R. 9416) now under consideration in the Senate and upon amendments then pending, without further debate, on the 30th day of August, 1890, the voting to commence at 2 o'clock p. m. on said day and to continue on that and subsequent days, to the exclusion of all other business, until the bill and pending amendments are finally disposed of.

For the foregoing stated purpose the following rules, namely, VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL, are modified.

The Senate proceeded to consider the resolution; and an amendment having been proposed by Senator Hoar, viz: Strike out all after the word "resolved" and in lieu thereof insert: *That the rules of the Senate be amended by adding the following:*

When any bill or resolution shall have been under consideration for a reasonable time, it shall be in order for any Senator to demand that debate thereon be closed. If such demand be seconded by a majority of the Senators present, the question shall forthwith be taken thereon without further debate, and the pending measures shall take precedence of all other business whatever. If the Senate shall decide to close debate, the question shall be put upon the pending amendments, upon amendments of which notice will then be given, and upon the measure in its successive stages according to the rules of the Senate, but without further debate, except that every Senator who may desire shall be permitted to speak upon a measure not more than once, and not exceeding one hour.

After such demand shall have been made by any Senator no other motion shall be in order until the same shall have been voted upon by the Senate, unless the same shall fail to be seconded.

After the Senate shall have decided to close debate, no motion shall be in order but a motion to adjourn or to take recess, when such motion shall be seconded by a majority of the Senate. When either of said motions shall have been lost or shall have failed of a second, it shall not be in order to renew the same until one Senator shall have spoken upon the pending measure, or one vote upon the same shall have intervened.

For the foregoing stated purpose the following rules, namely, VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL are modified.

On motion by Mr. Hoar to amend the part proposed to be stricken out by inserting after the words "the pending bill (H. R. 9416)" the words "*the bill to amend and supplement the election laws of the United States (H. R. 11045)*," and by adding at the end of the resolutions the words "*and immediately thereafter the bill to amend and supplement the election laws of the United States shall be taken up for consideration, and shall remain before the Senate every day for three days, after the reading of the Journal, to the exclusion of all other business, and on the fourth day of September, at 2 o'clock, voting thereon and on the then pending amendments, shall begin and shall continue from day to day, to the exclusion of other business, until the same are finally disposed of.*"

After debate,

On motion by Mr. Spooner, that the resolution, with the proposed amendment, be referred to the Committee on Rules,

Pending debate,

The President *pro tempore* announced that the hour of 12 o'clock had arrived, and laid before the Senate the unfinished business at its adjournment yesterday, viz, the bill (H. R. 9416) to reduce the revenue and equalize duties on imports, and for other purposes.

[Cong. Rec., 1st sess. 51st Cong., 8841–8849.]

1st sess. 51st Cong., J. of S., 539.] SEPTEMBER 23, 1890.

The Senate proceeded to consider the resolution submitted by Mr. Quay August 18, 1890, prescribing an order of business during the remainder of the present session; and

Ordered, That it be postponed indefinitely.

2d sess. 51st Cong., J. of S., 46.] DECEMBER 23, 1890.

Mr. Aldrich gave notice, in accordance with the provisions of Rule XL, that he would move certain amendments to the rules, which would modify Rules VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXXV, and XL, and for that purpose

He would hereafter submit the following resolution:

Resolved, That for the remainder of this session the rules of the Senate be amended by adding thereto the following:

When any bill, resolution, or other question shall have been under consideration for a reasonable time it shall be in order for any Senator to demand that debate thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made. If such demand be seconded by a majority of the Senators present, the question shall forthwith be taken thereon without debate. If the Senate shall decide to close debate on the bill, resolution, or other question, the measure shall take precedence of all other business whatever, and the question shall be put upon the amendments, if any, then pending, and upon the measure in its successive stages, according to the rules of the Senate, but without further debate, except that every Senator who may desire shall be permitted to speak upon the measure, including all amendments, not more than once, and not exceeding thirty minutes.

After the Senate shall have decided to close debate as herein provided, no motion shall be in order but a motion to adjourn or to take a recess, when such motion shall be seconded by a majority of the Senate. When either of said motions shall have been lost, or shall have failed of a second, it shall not be in order to renew the same until one Senator shall have spoken upon the pending measure, or one vote upon the same shall have intervened.

Pending proceedings under the foregoing rule no proceeding in respect of a quorum shall be in order until it shall have appeared on a division or on the taking of the yeas and nays that a quorum is not present and voting.

Pending proceedings under the foregoing rule, all questions of order, whether on appeal or otherwise, shall be decided without debate, and no obstructive or dilatory motion or proceeding of any kind shall be in order.

For the foregoing stated purposes the following rules, namely, VII, VIII, XIX, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL, are modified.

Ordered, That the proposed resolution be printed.

2d sess. 51st Cong., J. of S., 51.] DECEMBER 29, 1890.

Mr. Aldrich, pursuant to notice given on the 23d instant, submitted the following resolution; which was ordered to be printed:

Resolved: That for the remainder of this session the rules of the Senate be amended by adding thereto the following:

When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made. If such demand be seconded by a majority of the Senators present, the question shall forthwith be taken thereon without debate. If the Senate shall decide to close debate on any bill, resolution, or other question, the measure shall take precedence of all other business whatever, and the question shall be put upon the amendments, if any, then pending, and upon the measure in its successive stages, according to the rules of the Senate, but without further debate, except that every Senator who may desire shall be permitted to speak upon the measure, including all amendments, not more than once, and not exceeding thirty minutes.

After the Senate shall have decided to close debate as herein provided, no motion shall be in order but a motion to adjourn or to take a recess, when such motions shall be seconded by a majority of the Senate. When either of said motions shall have been lost or shall have failed of a second, it shall not be in order to renew the same until one Senator shall have spoken upon the pending measure, or one vote upon the same shall have intervened.

Pending proceedings under the foregoing rule, no proceeding in respect of the quorum shall be in order until it shall have appeared on a division, or on the taking of the yeas and nays, that a quorum is not present and voting.

Pending proceedings under the foregoing rule, all questions of order, whether upon appeal or otherwise, shall be decided without debate, and no obstructive or dilatory motion or proceedings of any kind shall be in order.

For the foregoing stated purposes the following rules, namely, VII, VIII, XIX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL, are modified.

2d sess. 51st Cong., J. of S., 87.] JANUARY 20, 1891.

On motion by Mr. Aldrich, that the Senate proceed to the consideration of the resolution submitted by him December 29, 1890, to amend the rules so as to provide a limitation of debate under certain conditions, and for that purpose to modify rules VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL.

It was determined in the affirmative;

When

Mr. Harris raised a question of order, namely, that the notice given by Mr. Aldrich was not sufficiently specific to meet the requirements of rule XL, as it did not specify the parts of the rules proposed to be suspended, modified, or amended, and the purposes thereof, and that the proposed rule materially modifies Rules V and XX, and neither of these rules are mentioned in the notice as rules proposed to be suspended, modified, or amended.

Pending which, [the hour of 2 o'clock having arrived, &c.]

[Cong. Rec., 2d sess. 51st Cong., 1564–1568.]

2d sess. 51st Cong., J. of S., 89.] JANUARY 22, 1891.

On motion by Mr. Aldrich, that the Senate proceed to the consideration of the resolution submitted by him December 29, 1890, to amend the rules so as to provide a limitation of debate under certain conditions, and for that purpose to modify Rules VII, VIII, IX, X, XII, XIX, XXII, XXVII, XXVIII, XXXV, and XL.

Mr. Harris raised a question of order, namely, that the unfinished business was the motion of Mr. Gorman, to correct the Journal of the day before yesterday, it being a question of the highest privilege, and under Rule 3, to be proceeded with until it is concluded.

The Vice-President overruled the question of order, and stated that he did not find any rule bearing upon the question of amending or approving any other Journal than that of the preceding day, and as therefore of the opinion that the motion made by the Senator from Rhode Island was in order, the morning hour having expired.

From the decision of the Chair Mr. Harris appealed to the Senate; and,

On the question, "Shall the decision of the Chair stand as the judgment of the Senate?"

It was determined in the affirmative, { Yeas ..... 35 / Nays 30

On motion by Mr. Cockrell,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the decision of the Chair was sustained.

[Cong. Rec., 2d sess. 51st Cong., 1654—1664.]

2d sess. 51st Cong., J. of S., 90.] JANUARY 22, 1891.

The question recurring on the motion of Mr. Aldrich, that the Senate proceed to the consideration of the resolution,

On motion by Mr. Gorman, to lay the motion on the table,

It was determined in the negative, { Yeas ..... 30 / Nays 35

On motion by Mr. Gorman,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion to lay on the table was not agreed to.

Mr. Ransom raised a question of order, namely, that the motion to take up the resolution was not in order because the Journal of the 20th instant as read on the 21st shows that the resolution was taken up on the 20th, and if that be true, it then became and now is the unfinished business.

The Vice-President overruled the question of order.

From the decision of the Chair Mr. Ransom appealed to the Senate; and,

On the question, "Shall the decision of the Chair stand as the judgment of the Senate?"

It was determined in the affirmative, { Yeas ..... 36 / Nays 27

On motion by Mr. Ransom,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative are:

[The names are omitted.]

So the question of order was overruled.

Mr. Gorman asked that the motion of Mr. Aldrich be put in writing.

The motion having been reduced to writing, and the question recurring on agreeing on the same,

It was determined in the affirmative, { Yeas ..... 36 / Nays 32

On motion by Mr. Aldrich,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was agreed to; and

The Senate resumed the consideration of the resolution; and

The question being on the point of order raised by Mr. Harris, on the 20th instant,

namely: That the notice given by Mr. Aldrich was not sufficiently specific to meet the requirements of Rule XL, as it did not specify the parts of the rules supposed to be suspended, modified, or amended, and the purposes thereof; and that the proposed rule materially modifies Rules V and XX, and neither of the e rules is mentioned in the notice as rules proposed to be suspended, modified, or amended,

The Vice-President overruled the question of order, and decided that it was not well taken, as in the opinion of the Chair the purpose and spirit of the rule are stated in the resolution submitted by Mr. Aldrich.

From the decision of the Chair, Mr. Faulkner appealed to the Senate, and

After debate,

At 2 o'clock and 35 minutes p. m., Mr. Gorman raised a question as to the presence of a quorum;

Whereupon,

The Presiding Officer (Mr. Manson in the chair) directed the roll to be called,

When

Fifty-one Senators answered to their names.

A quorum being present, and the question recurring upon the appeal taken by Mr. Faulkner from the decision of the Chair,

After further debate,

On motion by Mr. Aldrich that the appeal lie on the table,

Mr. Gorman asked that the motion be put in writing; and

The motion having been reduced to writing by Mr. Aldrich,

On the question to agree to the same,

It was determined in the affirmative, { Yeas..... 33 / Nays..... 28

On motion by Mr. Gorman,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was not agreed to.

The question recurring on agreeing to the resolution submitted by Mr. Aldrich,

Pending debate,

[Cong. Rec., 2d sess. 51st Cong., 1664–1682.]

2d sess. 51st Cong., J. of S., 91.] JANUARY 22, 1891.

The Senate resumed the consideration of the resolution submitted by Mr. Aldrich to amend the rules so as to provide a limitation of debate.

An amendment having been proposed by Mr. Stewart,

On motion by Mr. Faulkner, the yeas and nays were ordered.

Pending debate,

On motion by Mr. Aldrich, at 5 o'clock and 15 minutes p. m.

The Senate took a recess until 12 m. Monday.

MONDAY, 12 o'clock m.

The Senate resumed the consideration of the resolution submitted by Mr. Aldrich to amend the rules so as to provide a limitation of debate; and

The question being on the amendment proposed by Mr. Stewart,

[Cong. Rec., 2d sess. 51st Cong., 1682–1738.]

2d sess. 51st Cong., J. of S., 91.] JANUARY 22, 1891.

The Senate resumed the consideration of the motion submitted by Mr. Gorman to amend the Journal of the proceedings of Tuesday, the 20th instant, by striking out, after the motion submitted by Mr. Aldrich that the Senate resume the consideration of the resolution to amend the rules so as to provide a limitation of debate, the words "It was determined in the affirmative;" when,

By unanimous consent, the order for the yeas and nays was withdrawn, and

The motion to amend having been agreed to,

The Journal was approved.

The Senate resumed the consideration of the question of the approval of the Journal of the proceedings of Wednesday, the 21st instant; and

The Journal was approved.

2d sess. 51st Cong., J. of S., 178.] FEBRUARY 26, 1891.

On motion by Mr. Allison,

The Senate resumed, as in Committee of the Whole, the consideration of the bill (H. R. 13462) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1892, and for other purposes,

When,

On motion by Mr. Allison and by unanimous consent,

Ordered, That during the consideration of the pending bill debate on amendments thereto shall be limited to five minutes for each Senator on the pending question, *and that no Senator* shall speak more than once on the same amendment.

ELECTION OF VICE-PRESIDENT.

The Senate has been called upon but once to elect the Vice-President. In 1836 no candidate received a majority of the votes cast. From the two receiving the highest number of votes the Senate proceeded to elect. The Senators were called in alphabetical order and announced their votes when called. At the conclusion of the call it appeared that thirty-three had voted for Richard M. Johnson and sixteen for Francis M. Granger. Mr. Johnson was therefore declared elected Vice-President of the United States and a committee of three Senators appointed to notify him of that fact. The House of Representatives was informed of the action of the Senate by the Secretary.

2d sess., 24th Cong., J. of S., 229.] FEBRUARY 8, 1837.

Mr. Grundy submitted the following motion for consideration:

Whereas, upon the counting of the electoral votes in the presence of both Houses of Congress, given at the late election for President and Vice-President of the United States, it appears that no person has received for the office of Vice-President of the United States a majority of the votes of the whole number of electors appointed; and it also appearing that Richard M. Johnson, of Kentucky, and Francis M. Granger, of New York, have the two highest numbers on the list of those voted for to fill the office of Vice-President; therefore

Resolved, That the Senate do now proceed to choose a Vice-President from the said Richard M. Johnson and the said Francis M. Granger, they having the two highest numbers on the list; and the manner of voting shall be as follows: The Secretary of the Senate shall call the names of the Senators in alphabetical order; and each Senator will, when his name is called, name the person for whom he votes; and if a majority of the whole number of Senators shall vote for either the said Richard M. Johnson or Francis M. Granger, he shall be declared by the presiding officer of the Senate constitutionally elected Vice-President of the United States for four years, commencing on the 4th day of March, 1837.

The Senate proceeded by unanimous consent to consider the motion; and

Resolved, That they concur therein.

The Secretary having called the names of the Senators, respectively, in alphabetical order,

* * * * * * *

It appeared, therefore, that the whole number of votes were 49; and that of these 33 were given in favor of Richard M. Johnson of Kentucky, and 16 votes in favor of Francis M. Granger, of New York.

The President of the Senate thereupon declared Richard M. Johnson, of Kentucky, constitutionally elected Vice-Pesident of the United States for four years, commencing on the 4th day of March, 1837.

The following motion was submitted by Mr. Grundy, considered by unanimous consent, and agreed to:

Resolved, That a committee of three persons be appointed to wait upon Richard M. Johnson, of Kentucky, and to notify him that he has this day been duly chosen by the Senate, in pursuance of the Constitution of the United States, Vice-President of the United States for four years, commencing with the 4th day of March, 1837.

It was agreed that the President appoint the committee; and

Mr. Grundy, Mr. Robinson, and Mr. Miles were appointed accordingly.

On motion

The Senate adjourned.

Ib., 231.] FEBRUARY 9, 1837.

On motion by Mr. Grundy, and by unanimous consent,

Ordered, That the Secretary notify the House of Representatives that the Senate have, in pursuance of the provision contained in the Constitution, chosen Richard M. Johnson, of Kentucky, Vice-President of the United States for four years, commencing with the 4th day of March, 1837

RIGHT TO DEMAND PAPERS ON THE EXECUTIVE FILES.

December 11, 1833, on motion by Henry Clay, the President of the United States was requested to send to the Senate a copy of a paper "which purports to have been read by him to the heads of the executive departments." The President declined to furnish the copy on the ground that the legislative branch of the Government had no right to require any information as to a communication made by the President to the heads of departments. The reply was referred to a select committee.

July 17, 1885, during a recess of the Senate, the President suspended George M. Duskin, district attorney for the southern district of Alabama, appointing John D. Burnett in his place. December 14, the President sent to the Senate the nomination of Mr. Burnett to be district attorney *vice* Mr. Duskin, suspended. The Committee on the Judiciary, to which the nomination was referred in the usual course, following its invariable practice, asked the Department of Justice for the papers touching the suspension and appointment. The papers relating to the suspension of Mr. Duskin were not sent. Whereupon the Attorney-General was directed by resolution of the Senate to transmit to the Senate these papers. The Attorney-General replied that he was directed by the President of the United States to say that "The public interest would not be promoted by a compliance with the resolution." This letter was referred to the Committee on the Judiciary. A majority and minority report were presented. The majority contended for the right of the Senate to demand and receive any papers on the files of the Department, and recommended a resolution censuring the Attorney-General for refusing them. The minority sustained the Attorney-General, taking the ground that the papers demanded were not public, as they related wholly to the suspension of Mr. Duskin, the official act of the President of the United States alone, and that therefore they were not subject to the demand of the Senate, as the question of removal was one for the President only.

The majority report was made February 18. On the 23d Mr. Morgan submitted resolutions declaring that the censure proposed by the majority of the committee would be a prejudgment of an impeachable officer for an impeachable offense and referring the matter to the Committee on Privileges and Elections to inquire whether the offense alleged was impeachable; whether the Senate had power to arrest and punish the Attorney-General for contempt; whether there was in the facts stated in the report any crime against the United States or any violation of law; also whether the Senate had any power to advise and consent to removals; and, finally, whether the Senate could bind its members by any declaration of the duty of the Senate.

March 1, the President of the United States sent to the Senate a message stating that the action of the Attorney-General had been taken by his direction and that the papers which were withheld were "purely unofficial and private, not infrequently confidential, and having reference to the performance of a duty exclusively [his]." The President further contended that the right of removal was in him alone.

The Senate debated the resolutions proposed by the Committee elaborately and finally adopted them March 26, 1886, thereby accepting the majority report censuring the Attorney-General for refusing to furnish the papers called for as a violation of his official duty and deciding that it was the duty of the Senate to refuse consent to removals in cases in which the papers in reference to the supposed misconduct of the officers removed were not submitted to the Senate. The Senate also adopted the fourth resolution recommended by the committee declaring that to remove an honorably discharged soldier or sailor competent to perform the duties of the office he holds to give place to another who had not served in the Army or Navy was a violation of the spirit of the law.

[For an examination of this question see Papers Am. Hist. Assn., vol. v, No. 4.]

1st sess., 23d Cong., J. of S. 40.] DECEMBER 11, 1833.

The following motion, submitted by Mr. Clay, was considered:

Resolved, That the President of the United States be requested to communicate to the Senate a copy of the paper which has been published, and which purports to

have been read by him to the heads of the Executive Departments, dated the 18th day of September last, relating to the removal of the deposits of the public money from the Bank of the United States and its offices.

On the question, "Shall this resolution pass?"

It was determined in the affirmative, { Yeas ..... 23 / Nays 18

[The names are omitted.]

Ordered, That the Secretary lay the foregoing resolution before the President of the United States.

[G. & S. Reg. vol. x. p. 20–38.]

Ib., 42] DECEMBER 12, 1833.

The following written message was received from the President of the United States by Mr. Donaldson, his Secretary.

WASHINGTON, *December 12, 1833.*

To the Senate of the United States:

I have attentively considered the resolution of the Senate of the 11th instant, requesting the President of the United States to communicate to the Senate "a copy of the paper which has been published, and which purports to have been read by him to the heads of the Executive Departments, dated the 18th day of September last, relating to the removal of the deposits of the public money from the Bank of the United States and its offices."

The Executive is a co-ordinate and independent branch of the Government, equally with the Senate, and I have yet to learn under what constitutional authority that branch of the Legislature has a right to require of me an account of any communication, either verbally or in writing, made to the heads of departments, acting as a Cabinet council. As well might I be required to detail to the Senate the free and private conversations I have held with those officers on any subjects relating to their duties and my own.

Feeling my responsibility to the American public, I am willing, upon all occasions, to explain to them the grounds of my conduct; and I am willing, upon all proper occasions, to give to either branch of the Legislature any information in my possession that can be useful in the execution of the appropriate duties confided to them.

Knowing the constitutional rights of the Senate, I shall be the last man, under any circumstances, to interfere with them. Knowing those of the Executive, I shall at all times endeavor to maintain them agreeably to the provisions of the Constitution, and the solemn oath I have taken to support and defend it.

I am constrained, therefore, by a proper sense of my own self respect, and of the rights secured by the Constitution to the Executive branch of the Government, to decline a compliance with your request.

ANDREW JACKSON.

The message was read; and,

On motion by Mr. Grundy,

Ordered, That it be laid on the table.

[G. & S. Reg., vol. x, pp. 38, 39.]

Ib., 58.] DECEMBER 19, 1833.

On motion by Mr. Mangum,

The Senate proceeded to consider the message received from the President of the United States on the 12th instant, declining to comply with the resolution of the Senate of the 11th, requesting him to communicate "a copy of the paper which has been published, and which purports to have been read by him to the heads of the Executive Departments, dated the 18th day of September last, relating to the removal of the deposits of the public money from the Bank of the United States and its offices;" and

On motion by Mr. Mangum,

Resolved, That it be referred to a select committee, to consist of seven members, to consider and report thereon.

Ordered, That Mr. Mangum, Mr. White, Mr. Forsyth, Mr. Ewing, Mr. Bibb, Mr. Southard, and Mr. Rives, be the committee.

[G. & S. Reg., vol. x, pp. 47, 48.]

1st sess. 49th Cong., J. of S., 237.] FEBRUARY 2, 1886.

Mr. Riddleberger submitted the following resolution:

Resolved, That it is the sense of the Senate that the Executive of the United States is not restricted by Constitution or law in removing or suspending appointees; that the Senate has no Constitutional right to require that reason shall be given for such removals or suspensions, but that it is the right of the Senate to call for any papers

relating to the conduct of removed or suspended appointees or to the qualification or fitness of all persons whose names are presented to the Senate for confirmation or rejection, and it is the duty of the Executive to comply with all demands for the same.

The Senate proceeded, by unanimous consent, to consider the resolutions; and an amendment having been proposed by Mr. Pugh, viz: Strike out all after the word "*Resolved*" and in lieu thereof insert the following:

(1) That "the Executive power" is expressly "vested" by the Constitution in the "President" of the United States, so that "he shall take care that the laws be faithfully executed."

(2) That the power of appointment to Federal office is an Executive power to be exercised by the President, under the limitation in the Constitution that "he shall nominate, and, by and with the advice and consent of the Senate, shall appoint."

(3) That the power of removal or suspension from the powers and duties of Federal office is also an Executive power vested exclusively in the President, without any such limitation in the Constitution as is imposed thereby on the power of appointment, and for its exercise he is responsible alone to the people and not to the Senate.

(4) That the right of the President to make nominations to the Senate, and of the Senate to advise and consent thereto, are each separate and independent rights to be exercised by the President and Senate respectively and separately and independently within their absolute discretion; but in relation to the person or persons so nominated the Senate may request information of the President affecting the character or qualifications of those as to whose appointment he asks the advice and consent of the Senate.

(5) That when the President makes nominations to the Senate of persons to be appointed by him to exercise the powers and duties of Federal officers who had been removed or suspended by him, no law, public duties, or public policy requires that he shall send or communicate to the Senate any cause, reason, or information within his own knowledge, or contained in any letters, petitions, papers, or documents addressed to him or any member of his Cabinet, or in the possession of either, and relating to the subject of removals or suspensions, or containing charges, causes, or reasons, and the proof thereof, making such removals or suspensions, and no law, public duties, or public policy requires or authorizes the Senate to call for such information, existing in any such form, from the President, or any member of his Cabinet, to enable the Senate to rebuke or question the action of the President in exercising his executive, discretionary, and exclusive power of removing or suspending Federal officers from the powers and duties of their offices, or to put the President on trial by the Senate, or to enforce accountability to the Senate for anything he may have done in the exercise of such jurisdiction.

(6) That to obtain information considered by either House of Congress useful in passing necessary and proper laws, either House of Congress may request the President, if not deemed by him incompatible with the public interest, to give any information within his own knowledge, or contained in any public documents or records on file, or in the lawful custody of any of the Departments, and relating to the administration of any public office, or the official conduct or acts affecting the official conduct or duties of any public officer; but for the Senate to make such request of the President, or to direct any member of his Cabinet to transmit to the Senate any information or any public documents or other papers, in open or executive session, and to enable the Senate in open or executive sessions to review the propriety, or the cause, or the information upon which he acted or may have acted in making removals or suspensions, would be an attempt to obtain such information by false pretenses and for uses and purposes not authorized or justified by any law or public policy of the United States; and should the President grant such request, or require any member of his Cabinet to obey such direction from the Senate when deemed by him to have been made for such unjustifiable and unlawful uses and purposes, would be to recognize and encourage an improper practice and a dangerous innovation upon his exclusive and independent rights, powers, and duties as President of the United States.

Ordered, That the further consideration thereof be postponed to to-morrow, and that the resolution and proposed amendment be printed.

Ib., 309.] FEBRUARY 18, 1886.

Mr. Edmunds, from the Committee on the Judiciary, to whom was referred the letter of the Attorney-General declining to transmit to the Senate copies of official records and papers concerning the administration of the office of the district attorney for the southern district of Alabama, submitted a report (No. 135) accompanied by the following resolutions:

Resolved, That the foregoing report of the Committee on the Judiciary be agreed to and adopted.

Resolved, That the Senate hereby expresses its condemnation of the refusal of the Attorney-General, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 26th of January, and set forth in the report of the Committee on the Judiciary, as in violation of his official duties and subversive of the fundamental principles of the Government and of a good administration thereof.

Resolved, That it is, under these circumstances, the duty of the Senate to refuse

its advice and consent to proposed removals of officers the documents and papers in reference to the supposed official or personal misconduct of whom are withheld by the Executive or any head of a Department when deemed necessary by the Senate and called for in considering the matter.

Resolved, That the provision of section 1754 of the Revised Statutes declaring—

"That persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty shall be preferred for appointment to civil offices, provided they are found possessed of the business capacity necessary to the proper discharge of the duties of such office," ought to be faithfully and fully put into execution, and that to remove, or propose to remove, any such soldier whose faithfulness, competency, and character are above reproach and to give place to another who has not rendered such service, is a violation of the spirit of the law and of the practical gratitude which the people and Government of the United States owe to the defenders of constitutional liberty and integrity of the Government.

Mr. Pugh asked and obtained leave to submit at some future day the views of a minority of the Committee on the Judiciary on the foregoing subject.

1st sess. 49th Cong., S. Rept. No. 135.]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1886.—Ordered to be printed.

Mr. Edmunds, from the the Committee on the Judiciary, submitted the following report of the letter from the Attorney-General of the United States declining to transmit to the Senate copies of official records and papers concerning the administration of the office of the district attorney of the southern district of Alabama.

The Committee on the Judiciary, to which was referred a letter from the Attorney-General of the United States declining to transmit to the Senate copies of official records and papers concerning the administration of the office of district attorney of the southern district of Alabama, from January 1, 1885, to January 25, 1886, respectfully reports:

That on the 17th of July, 1885, the President of the United States, pursuant to the provisions of section 1768 of the Revised Statutes, suspended George M. Duskin from the execution of the duties of the office of district attorney of said district, by an order in the following words:

EXECUTIVE MANSION,
Washington, D. C., July 17, 1885.

SIR: You are hereby suspended from the office of attorney of the United States for the southern district of Alabama, in accordance with the terms of section 1768, Revised Statutes of the United States, and subject to all provisions of law applicable thereto.

GROVER CLEVELAND.

GEORGE M. DUSKIN, Esq.,
United States Attorney, Mobile Ala.

And on the same day, pursuant to the same statute, designated John D. Burnett to perform the duties of such suspended officer in the meantime, by a letter of authority in the words following:

Grover Cleveland, President of the United States of America, to all who shall see these presents, greeting:

Know ye, that by virtue of the authority conferred upon the President by section 1768 of the Revised Statutes of the United States, I do hereby suspend George M. Duskin, of Alabama, from the office of attorney of the United States for the southern district of Alabama, until the end of the next session of the Senate; and I hereby designate John D. Burnett, of Alabama, to perform the duties of such suspended officer in the mean time, he being a suitable person therefor; subject to all provisions of law applicable thereto.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington, the seventeenth day of July, in the year of our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States of America the one hundred and tenth.

GROVER CLEVELAND.

By the President:
[SEAL.]

T. F. BAYARD,
Secretary of State.

On the 14th December, 1885, the Senate then being in session, the President nominated the same John D. Burnett to be attorney of the United States for the southern district of Alabama in the place of the said Duskin, suspended, in the following words:

I nominate John D. Burnett, of Alabama, to be attorney of the United States for the southern district of Alabama, vice George M. Duskin, suspended.

GROVER CLEVELAND.

This nomination was in due course referred to the Committee on the Judiciary.

Since the passage of the act of 2d March, 1867, "regarding the tenure of certain civil offices," it has been the practice of the Committee on the Judiciary, whenever a nomination has been made proposing the removal from office of one person and the appointment of another, to address a note to the head of the Department having such matters in charge (usually the Attorney-General), asking that all papers and information in the possession of the Department touching the conduct and administration of the officer proposed to be removed, and touching the character and conduct of the person proposed to be appointed, be sent to the committee for its information. This practice has through all administrations been carried on with the unanimous approval of all the members of the committee, although the composition of the committee has been during this period sometimes of one political character and sometimes of another. In no instance until this time has the committee met with any delay or denial in respect of furnishing such papers and information, with a single exception, and in which exception the delay and suggested denial lasted for only two or three days.

The committee has thus hitherto been enabled to know the character and quality of the administration of the office in charge of the incumbent proposed to be removed as well as the character and quality of the person proposed to be appointed, so far as the papers in the Department could furnish information in regard thereto.

In the instance now particularly under consideration, the committee, according to its standing course, on December 26, 1885, through its chairman, addressed a note to the Attorney-General in the same form, and asking for the same papers and information that it had been accustomed to do. After sundry delays and explanations it became evident to the committee that it could not by this informal method obtain an inspection of the papers and documents in the Department of Justice bearing upon the subject. It accordingly, on the 25th of January, 1886, reported to the Senate, for its adoption, a resolution in the following words:

"*Resolved*, That the Attorney-General of the United States be, and he hereby is, directed to transmit to the Senate copies of all documents and papers that have been filed in the Department of Justice since the 1st day of January, A. D. 1885, in relation to the management and conduct of the office of district attorney of the United States of the southern district of Alabama."

which on the next day was adopted by the Senate without a division.

The Attorney-General, on the 1st day of February, 1886, sent to the Senate a communication in the following words:

DEPARTMENT OF JUSTICE,
January 28, 1886.

The President pro tempore of the Senate of the United States:

I acknowledge the receipt of a resolution of the Senate adopted on the 25th instant in executive session as follows:

"*Resolved*, That the Attorney-General of the United States be, and he hereby is, directed to transmit to the Senate copies of all documents and papers that have been filed in the Department of Justice since the first day of January, A. D. 1885, in relation to the management and conduct of the office of district attorney of the United States of the southern district of Alabama."

In response to the said resolution the President of the United States directs me to say that the papers which were in this Department relating to the fitness of John D. Burnett, recently nominated to said office, having been already sent to the Judiciary Committee of the Senate, and the papers and documents which are mentioned in the said resolution, and still remaining in the custody of this Department, having exclusive reference to the suspension by the President of George M. Duskin, the late incumbent of the office of district attorney of the United States for the southern district of Alabama, it is not considered that the public interest will be promoted by a compliance with said resolution and the transmission of the papers and documents therein mentioned to the Senate in executive session.

Very respectfully, your obedient servant,

A. H. GARLAND,
Attorney-General.

This letter, although in response to the direction of the Senate that copies of any papers bearing on the subject within a given period of time be transmitted, assumes that the Attorney-General of the United States is the servant of the President, and is to give or withhold copies of documents in his office according to the will of the Executive, and not otherwise.

Your committee is unable to discover, either in the original act of 1789 creating the office of Attorney-General, or in the act of 1870 creating the Department of Justice, any provision which makes the Attorney-General of the United States in any sense the servant of or controlled by the Executive in the performance of the duties imputed to him by law or the nature of his office. It is true that in the creation of the Department of State, of War, and of the Navy it was provided in substance that these Secretaries should perform such duties as should from time to time be enjoined upon them by the President, and should conduct the business of their Departments in such manner as the President should direct, but the committee does not think it important to the main question under consideration that such direction is not to be found in the statute creating the Department of Justice, for it is thought it must be obvious that the authority intrusted by the statute in these cases to the President to direct and control the performance of duties was only a superintending authority to regulate the performance of the duties that the *law* required, and not to require the performance of duties that the laws had not devolved upon the heads of Departments, and not to dispense with or forbid the performance of such duties according as it might suit the discretion or the fancy of the Executive. The Executive is bound by the Constitution and by his oath to take care that the laws be faithfully executed, and he is himself as much bound by the regulations of law as the humblest officer in the service of the United States, and he can not have authority to undertake to faithfully execute the laws whether applied to his own special functions or those of the Departments created by law, otherwise than by causing, so far as he lawfully may, and by lawful methods, the heads of Departments and other officers of the United States to do the duties which the law, and not his will, has imputed to them.

The important question, then is, whether it is within the constitutional competence of either house of Congress to have access to the official papers and documents in the various public offices of the United States created by laws enacted by themselves. It may be fully admitted that except in respect of the Department of the Treasury there is no statute which commands the head of any Department to transmit to either house of Congress on its demand any information whatever concerning the administration of his Department, but the committee believes it to be clear that from the very nature of the powers entrusted by the Constitution to the two houses of Congress, it is a necessary incident that either house must have at all times the right to know all that officially exists or takes place in any of the Departments of the Government. So perfectly was this proposition understood before and at the time of the formation of the Constitution that the Continental Congress, before the adoption of the present Constitution, in establishing a Department of Foreign Affairs and providing for a principal officer thereof, thought it fit to enact that all books, records, and other papers in that office should be open to the inspection of any *member* of Congress, provided that no copy should be taken of matters of secret nature, without special leave of Congress. It was not thought necessary to enact that the Congress itself should be entitled to the production and inspection of such papers, for that right was supposed to exist in the very nature of things, and when under the Constitution, the Department came to be created, although the provision that each individual member of Congress should have access to the papers was omitted (evidently for reasons that can now be quite well understood), it was not thought necessary that an affirmative provision should be inserted, giving to the houses of Congress the right to know the contents of the public papers and records in the public offices of the country whose laws and whose offices they were to assist in creating.

It is believed that there is no instance of civilized governments having bodies representative of the people or of states in which the right and the power of those representative bodies to obtain in one form or another complete information as to every paper and transaction in any of the executive departments thereof does not exist, even though such papers might relate to what is ordinarily an executive function, if that function impinged upon any duty or function of the representative bodies.

A qualification of this general right may under our Constitution exist in case of calls by the House of Representatives for papers relating to treaties, etc., under consideration and not yet disposed of by the President and Senate.

The committee feels authorized to state, after a somewhat careful research, that within the foregoing limits there is scarcely in the history of this Government until now any instance of a refusal by a head of a Department, or even of the President himself, to communicate official facts and information, as distinguished from private and unofficial papers, motions, views, reasons, and opinions, to either house of Con-

gress when unconditionally demanded. Indeed, the early journals of the Senate show great numbers of instances of directions to the heads of Departments, as of course, to furnish papers and reports upon all sorts of affairs, both legislative and executive.

The instances of requests to the President, and commands to the heads of Departments, by each house of Congress, from those days until now, for papers and information on every conceivable subject of public affairs are almost innumerable, for it appears to have been thought by all the Presidents who have carried on the Government now for almost a century, that, even in respect of requests to them, an independent and coördinate branch of the Government, they were under a constitutional duty and obligation to furnish to either house the papers called for—unless, as has happened in very rare instances, when the request was coupled with an appeal to the discretion of the President in respect of the danger of publicity, to send the papers if, in his judgment, it should not be incompatible with the public welfare.

Even in times of the highest party excitement and stress, as in 1826 and 1844, it did not seem to occur to the Chief Executive of the United States that it was possible that any official facts or information existing, either in the Departments created by law or within his own possession, could, save as before stated, be withheld from either of the houses of Congress, although such facts or information sometimes involved very intricate and delicate matters of foreign affairs, as well as sometimes the history and conduct of officers connected with the administration of affairs. Thus, in 1826, when the Senate thought fit to pass a resolution that, in considering whether the United States should be represented in the Congress of Panama, the Senate ought to act with open doors, unless the publication of the documents referred to in debate would be prejudicial to existing negotiations, and that the President be requested to inform the Senate whether such objection existed to the publication of the documents communicated by the Executive, and. if so, to specify the parts which would for that reason be objectionable, the President replied that all the communications had been made to the Senate in confidence and proceeded to say, "Believing that the established free confidential communication between the Executive and the Senate ought for the public interest to be preserved unimpaired, I deem it my indispensable duty to leave to the Senate itself the decision of the question involving a departure hitherto, so far as I am informed, without example, from that usage, and upon the motions for which, not being informed of them, I do not feel myself competent to decide," and although in this instance there was no question in regard to the furnishing documents or papers, and the question was merely whether the Executive was bound to give an opinion to the Senate in such a case, twenty out of forty-four Senators present appear to have voted on the yeas and nays for the proposition that the President in such a case was bound to give such an opinion to the Senate. Among those twenty were Senators Benton, Cobb, Dickerson, Hayne, King, Macon, Randolph, Van Buren, and Woodbury, and by a vote of 27 to 16 the Senate declared that it had "the right to publish communications so made and discuss the same with open doors without the consent of the President, when in their opinion the public interest may require such publication and such discussion."

In 1842 the House of Representatives charged the select committee to inquire into the cause, manner, and circumstances of the removal of one St. Sylvester, late a clerk in the Pension Office, with power to send for persons and papers. On the 27th of July, 1842, Mr. Garrett Davis reported to the House upon the subject, stating that the committee had requested the Secretary to furnish for its use a copy of the charges against Sylvester and a copy of the order dismissing him and copies of any other papers in the Department touching his removal. He quotes from the response of the Secretary as follows:

"The letter dismissing Mr. Sylvester was made a public record of the Department, and I therefore transmit a copy of it herewith, agreeable to your request. There is no other paper of the description specified in your request or relating to the subject on the files of this Department, nor is there any in my possession which is not of a confidential character. The faithful discharge of the duties devolving upon heads of Departments frequently renders it of essential importance to preserve confidential communications they have received as such, and private honor as well as public policy forbids that a pledge thus given should be violated."

Everything in the files was produced without question. The House adjourned soon after this report, and no final action was taken upon the subject. This report is so valuable as a discussion of the general questions connected with patronage that the committee thinks it fit to append it to this report (Appendix B). It will be seen in this instance that there was no attempt on the part of the Secretary to deny the right of the House to have the inspection of all papers in the files of the Department, but he only put himself upon the ground that private and confidential communications that were not on the files of the Department ought not to be disclosed. On the 18th May, 1844, the Senate, in executive session, adopted a resolution direct-

ing the Secretary of the Treasury to communicate whether any and what sums of money had been drawn from the Treasury to carry into effect the orders of the War and Navy Departments, made since the 12th April of that year, for increasing the military force on the frontiers of Texas, etc. On 28th of same month President Tyler sent a message to the Senate, stating that the Secretary had communicated the Senate resolution to him. He then says:

"While I can not recognize this call thus made on the head of the Department as consistent with the constitutional rights of the Senate when acting in its executive capacity, which in such case can only properly hold correspondence with the President of the United States, nevertheless, from an anxious desire to lay before the Senate all such information as may be necessary to enable it, with full understanding, to act upon any subject which may be before it, I herewith transmit communications which have been made to me by the Secretaries of War and Navy Departments in full answer to the resolution of the Senate."

In this instance it will be seen that there is no intimation of a denial of the right of either house of Congress, in the exercise of its general jurisdiction, to have knowledge of papers in and acts of a Department of the Government, but only a claim that when such papers are wanted in the "executive capacity" of the Senate they ought to be called for from the President direct. It must be supposed that President Tyler was ignorant of the fact that such commands to heads of Departments had been made by the Senate continuously from the foundation of the Government down to that time, and that those commands had been obeyed, or else he must have supposed that an unbroken and unchanged practice of the Senate, under the Constitution, for more than half a century, had been under a plainly erroneous impression of its rights, not only by itself, but by the executive departments of the Government. It would seem to be too clear for argument, that whether the Senate chooses to conduct its business with closed doors or open doors, is a matter entirely for its consideration and can have no relation to the obligation of the executive departments of the Government to respond to its call for papers or information.

On the 22d of May, of the same year, the Senate, on motion of Mr. Benton, requested the President to inform the Senate whether any engagement or agreement had taken place between the President of the United States and the President of Texas in relation to naval or military aid or any other aid, and, if so, to communicate all the particulars and copies of the same, if in writing, and a copy of all communications on the subject; which information was furnished.

On the 28th of May, of the same year, a similar resolution was passed, calling for a copy of the instructions given in 1829 by President Jackson, through the Secretary of State, to the United States minister at Mexico on the subject of Texas; which was furnished.

On the same 28th of May, 1844, on motion by Mr. Benton, the Senate called on the President for "the whole of the private letter from London, with its date, quoted by the American Secretary of State" in a letter of his to the United States chargé d'affaires in Texas, together with the name of the writer of the private letter; which information was supplied without protest.

Numerous other instances occurred about the same time of similar requests and similar compliances, too numerous, indeed, to justify insertion in this report.

The fact that the executive journals of the Senate have only been made public and printed down to the year 1828, and that the written journals since that time are not indexed, makes it difficult to find all the instances of calls on the President and heads of Departments for information and papers that have occurred since that date, but the committee feels safe in stating from the research it has made that the course of the Government has been constant and continuous and unchanged from the beginning until now, and that, in its belief, no instance within the principles and limitations before stated has occurred in which calls for official papers and files addressed either to the President in the form of requests or to the heads of Departments in the form of commands which have not been complied with, but it has sometimes happened where the request to the President was merely a conditional one, leaving it to his discretion whether the papers should be communicated or not, that they have not been communicated.

On the 6th December, 1866, when there was much irritation existing between the Houses of Congress and the Executive, the House of representatives adopted a resolution directing the Postmaster-General to communicate to the House information of all the postmasters removed from office between the 28th July, 1866, and said 6th of December, together with the reasons or causes of such removals, and the names of all persons appointed in their places, etc. This command was, on the 18th February, 1867, complied with by the Postmaster-General without, in the least degree, questioning the right of the House of Representatives to have that information.

Two instances occurring during the administration of President Hayes, under circumstances when there would be naturally a disposition on the part of the Exec-

utive to stand upon his constitutional rights, may be of interest. On the 9th January, 1879, the Senate passed a resolution directing the Secretary of the Treasury to transmit charges on file against the Supervising Inspector-General of Steamboats and the papers connected therewith; which was also promptly complied with.

At the same session a similar resolution called for papers on file in the Treasury Department "showing why Lieutenant Devereux was removed from the Revenue Marine Service," which was also complied with.

But it would seem to be needless to array further precedents out of the vast mass that exists in the journals of both houses covering probably every year of the existence of the Government. The practical construction of the Constitution in these respects by all branches of the Government for so long a period would seem upon acknowledged principles to settle what are the rights and powers of the two Houses of Congress in the exercise of their respective duties covering every branch of the operations of the Government; and it is submitted with confidence that such rights and powers are indispensable to the discharge of their duties, and do not infringe any right of the Executive, and that it does not belong to either heads of Departments or to the President himself to take into consideration any supposed motives or purposes that either House may have in calling for such papers, or whether their possession or knowledge of their contents could be applied by either House to useful purposes.

The Constitution of the United States was adopted in the light of the well-known history that even ministers of the English Crown were bound to lay before Parliament all papers when demanded, on pain of the instant dismissal of such ministers on refusal, through the rapid and effectual instrumentality of a vote of a want of confidence. And the Continental Congress had for more than ten years itself governed the country and had control of all papers and records, not by reason of anything expressed in the Articles of the Confederation, but by reason of the intrinsic nature of free government. The jurisdiction of the two houses of Congress to legislate, and the power to advise or withhold advice concerning treaties and appointments, necessarily involves the jurisdiction to officially know every step and action of the officers of the law and all the facts touching their conduct in the possession of the law of any Department or even in the possession of the President himself. There was no need to express such a power, for it was necessarily an inherent incident to the exercise of the powers granted.

It will be observed, that, in this instance, the call for papers covered a period of more than six months, during which the regular incumbent of the office had been discharging its duties, and also the further period of more than six months, during which the person designated to discharge those duties on suspension of the officer had been acting, and that that person is the one now proposed to be appointed to the place.

It will also be observed that the President has not undertaken to remove the incumbent of the office, but has only, in expressed and stated pursuance of the statutes on the subject, suspended that officer, and that the same statutes expressly provide that such officer shall not be removed without the advice and consent of the Senate, and that, if that advice and consent be not given, the incumbent would (unless his regular term of office should have previously expired) at the close of this session of the Senate, be restored to the lawful right to exercise its duties. The Senate, then, by this nomination, is asked to advise and consent to the removal of the incumbent and to the appointment of the candidate proposed for his place. In exercising its duty in respect of these questions it is plain that the conduct and management of the incumbent is a matter absolutely essential to be known to the Senate in order that it may determine whether it can rightly advise his removal, or rightly leave him to resume the functions of his office at the end of its session, as well as whether the candidate proposed has, in the exercise of the office under his designation, so conducted himself as to show that he is competent and faithful. Indeed, it may be stated with entire accuracy, that even in the case of a vacancy in an office and the proposed filling of such vacancy, it is important for the Senate to know the previous condition and management of the office, the state of its affairs, and whether there have been cases of misconduct or abuse of powers, the embezzlement of money, and, indeed, all the circumstances bearing upon its administration, in order that it may judge of the suitableness of appointing a particular person to take up its duties with reference to the difficulties that may exist in its affairs, the state of its accounts, and everything concerning its administration, so as to measure the fitness and competency of the particular candidate to meet the emergencies of the case.

It appears from the table herewith submitted (Appendix A) that out of about fourteen hundred and eighty-five nominations sent to the Senate during the first thirty days of this session, that is, from the first Monday in December, 1885, to the 5th of January, 1886, six hundred and forty-three were nominations of persons proposed to be appointed in the place of officers suspended and proposed to be removed (and

of whom it is known that some are soldiers), and in respect of whom the action of the Senate in advising and consenting to the proposed appointment would effect a removal, and in respect of whom the failure of the Senate to advise and consent to such removals and appointments the effect would be to restore them to the possession of their offices at the end of the session, except in cases in which the terms of some of them should have previously expired.

Is it not desirable and necessary to the proper performance of its duties, and in every aspect of the public interest, that the simple facts in regard to what the conduct of these officials, as well as in regard to what the conduct of the persons designated to perform their duties has been, should be made known to the Senate? Have these suspended officials, or any considerable number of them, been guilty of misconduct in office, or of any personal conduct making them unworthy to be longer trusted with the performance of duties imposed upon them by law? If they have, it would seem to be clear that every consideration of public interest and of public duty would require that the facts should be made known, in order that the Senate may understandingly and promptly advise their removal, and that the most careful scrutiny should be had in respect of selecting their successors, as well as in respect of providing better means and safeguards by legislation for administering the laws of the United States. Such information, it would seem, the Executive is determined the Senate shall not possess, for the alleged reason that it might enable the Senate to understand what circumstances connected with the faithful execution of the laws induced the President to exercise the discretion the statute confers upon him to suspend them, and ask the Senate to unite with him in their removal from office. A similar result would follow in respect of the knowledge of any and every step in the transactions of the Government; for instance, the President as commander-in-chief of the Army has as large discretion as he has in the suspension of civil officers, but on the theory suggested by the Attorney-General, both the President and the Secretary of War would be justified in refusing to either House of Congress copies of papers and documents relating to the administration of the Department of War, and the disposition of the troops, etc., for the reason that the facts being disclosed, the two Houses of Congress might be enabled to comprehend the reasons and motives actuating the Executive in his conduct as commander in-chief.

Reduced to its simplest form, the proposition would be that neither the President nor the head of a Department is bound to communicate any official papers to either house of Congress which might draw into question in the minds of its members or of the people the wisdom or fairness of his acts. But the committee is of the opinion that in matters of this nature the Senate has little concern with the reasons or motives either of the heads of Departments or of the Executive, but it has large concern that its own reasons and grounds of action should rest upon and be drawn from the solid truth. The Senate, if it does its duty and preserves the independence that belongs to it, must act upon its own reasons and judgment and not upon those of the President, however valuable they may be. If the truth regarding the conduct of these officials and designated persons were known the question for the Senate would be, not what were the reasons or motives of the Executive, but whether the facts themselves, as they took place, would furnish it with sufficient reason for giving or withholding its advice and consent to the proposed changes.

Another view of the matter is not, as the committee thinks, without large importance to the public interest at this time. The President in his last annual message, and in connection with the subject of removing the ordinary administration of the laws and the selection of public agents from the arena of mere party politics, stated:

"I am inclined to think that there is no sentiment more general in the minds of the people of our country than a conviction of the correctness of the principle upon which the law enforcing civil-service reform is based. In its present condition the law regulates only a part of the subordinate public positions throughout the country. It applies the test of fitness to applicants for these places by means of a competitive examination, and gives large discretion to the Commissioners as to the character of the examination and many other matters connected with its execution. Thus the rules and regulations adopted by the Commission have much to do with the practical usefulness of the statute and with the results of its application.

"The people may well trust the Commission to execute the law with perfect fairness and with as little irritation as is possible. But of course no relaxation of the principle which underlies it and no weakening of the safeguards which surround it can be expected. Experience in its administration will probably suggest amendment of the methods of its execution, but I venture to hope that we shall never again be remitted to the system which distributes public positions purely as rewards for partisan service. Doubts may well be entertained whether our Government could survive the strain of a continuance of this system, which upon every change of administration inspires an immense army of claimants for office to lay siege to the patronage of Government, engrossing the time of public officers with their importunities,

spreading abroad the contagion of their disappointment, and filling the air with the tumult of their discontent.

"The allurements of an immense number of offices and places exhibited to the voters of the land, and the promise of their bestowal in recognition of partisan activity, debauch the suffrage and rob political action of its thoughtful and deliberative character. The evil would increase with the multiplication of offices consequent upon our extension, and the mania for office-holding, growing from its indulgence, would pervade our population so generally that patriotic purpose, the support of principle, the desire for the public good, and solicitude for the nation's welfare would be nearly banished from the activity of our party contests and cause them to degenerate into ignoble, selfish, and disgraceful struggles for the possession of office and public place.

"Civil-service reform enforced by law came none too soon to check the progress of demoralization.

"One of its effects, not enough regarded, is the freedom it brings to the political action of those conservative and sober men who, in fear of the confusion and risk attending an arbitrary and sudden change in all the public offices with a change of party rule, cast their ballots against such a chance.

"Parties seem to be necessary, and will long continue to exist; nor can it be now denied that there are legitimate advantages, not disconnected with office-holding, which follow party supremacy. While partisanship continues bitter and pronounced, and supplies so much of motive to sentiment and action, it is not fair to hold public officials, in charge of important trusts, responsible for the best results in the performance of their duties, and yet insist that they shall rely, in confidential and important places, upon the work of those not only opposed to them in political affiliation, but so steeped in partisan prejudice and rancor that they have no loyalty to their chiefs and no desire for their success. Civil-service reform does not exact this, nor does it require that those in subordinate positions who fail in yielding their best service, or who are incompetent, should be retained simply because they are in place. The whining of a clerk discharged for indolence or incompetency, who, though he gained his place by the worst possible operation of the spoils system, suddenly discovers that he is entitled to protection under the sanction of civil-service reform, represents an idea no less absurd than the clamor of the applicant who claims the vacant position as his compensation for the most questionable party work.

"The civil-service law does not prevent the discharge of the indolent or incompetent clerk, but it does prevent supplying his place with the unfit party worker. Thus, in both these phases, is seen benefit to the public service. And the people who desire good government, having secured this statute, will not relinquish its benefits without protest. Nor are they unmindful of the fact that its full advantages can only be gained through the complete good faith of those having its execution in charge. And this they will insist upon."

This highly important and valuable official communication, in the presence of six hundred and forty-three suspensions from office, would seem to lead to the conclusion that this number of the civil officers of the United States selected to be suspended and removed, had been so derelict in the performance of their functions or guilty of such personal misconduct as to put them in the category of unfaithful public servants, deserving dismissal by the President and the Senate and the condemnation of their countrymen. In such a state of things we think that the common sense of justice and fair play that is so much prized, as we believe, by the people of the United States would require that in some way this large body of men should have an opportunity to know the substance of their alleged misdoings in order that they may either admit their guilt, or, denying it, explain their conduct, or show that the accusations against them were selfish and wicked pretexts, and set up for the mere purpose of obtaining their suspension and ultimate dismissal from office in order that others less capable and worthy might at once receive the honors and emoluments of their places. It is known to every Senator that so far as the Senate has had to do, both with removals and appointments, it has for a great number of years been its practice, when any officer or person was before it for removal or appointment against whom any serious accusation has been made which would, if true, influence the action of the Senate in the case, to cause the person concerned to be informed of the substance of the complaint against him and give him an opportunity to defend himself, and it is also known that at this very session a very considerable number of instances of that kind have occurred and are daily occurring. If the Senate is proceeding upon a false principle in such instances, it is high time that its course in these respects should be reversed, and that hereafter it should act upon such accusations without any knowledge other than that derived from the accusers, and to leave the victims of such injustice to console themselves with the reflection that all parties are now engaged in an effort to reform the Government.

Why should the facts as they may appear from the papers on file be suppressed? Is it because that, being brought to light, it would appear that malice and misrepre-

sentation and perjury are somewhat abundant, or merely that faithful and competent and honorable officers have been suspended and are proposed to be removed, under the advice and consent of the Senate, in order that places may be found for party men because they are party men or are the special objects of party favor?

How does it happen, in this time of suggested reform and purer methods in Government, that for the first time it is thought important that the historic and administrative facts relating to the official and personal conduct of officers of the United States should be withheld, and that the administration of the Government should proceed with a secrecy and mystery as great as in the days of the Star Chamber?

The high respect and consideration that the Senate must always have for the executive office would make it reluctant to adopt either theory. But at present the impenetrable veil remains, and as the committee is unable to suggest any other solution of the riddle, it must leave it until this veil is lifted and the operations of the Government shall again be known.

In this state of things the committee feels it to be its clear duty to report for the consideration of the Senate and for adoption the following resolutions, namely:

Resolved, That the foregoing report of the Committee on the Judiciary be agreed to and adopted.

Resolved, That the Senate hereby expresses its condemnation of the refusal of the Attorney-General, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 25th of January, and set forth in the report of the Committee on the Judiciary, as in violation of his official duty and subversive of the fundamental principles of the Government and of a good administration thereof.

Resolved, That it is, under these circumstances, the duty of the Senate to refuse its advice and consent to proposed removals of officers, the documents and papers in reference to the supposed official or personal misconduct of whom are withheld by the Executive or any head of a Department when deemed necessary by the Senate and called for in considering the matter.

Resolved, That the provision of section 1754 of the Revised Statutes declaring—

"That persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such office—"

ought to be faithfully and fully put in execution, and that to remove, or to propose to remove, any such soldier, whose faithfulness, competency, and character are above reproach, and to give place to another who has not rendered such service, is a violation of the spirit of the law, and of the practical gratitude the people and Government of the United States owe to the defenders of constitutional liberty and the integrity of the Government.

All of which is respectfully submitted.

GEO. F. EDMUNDS.
JOHN J. INGALLS.
S. J. R. MCMILLAN.
GEO. F. HOAR.
JAMES F. WILSON.
WM. M. EVARTS.

[The appendices are omitted. They may be found in S. Repts., 1st sess. 49th Cong., No. 135, pp. 12–26.]

VIEWS OF THE MINORITY.

The minority of the Committee on the Judiciary, to whom was referred a letter from the Attorney-General of the United States declining to transmit to the Senate copies of official records and papers concerning the administration of the office of the district attorney of the southern district of Alabama from January 1, 1885, to January 25, 1886, respectfully submit the following report:

When President Cleveland came into office he found at least 95 per cent of the civil offices of the United States filled by Republicans, who had enjoyed their honors and emoluments through a period of twenty years, and as a rule these public positions had been distributed as rewards for partisan service, which the recipients continued to render after their appointment.

The President was elected on the declaration that civil office was a public trust, to be so treated by incumbents in practice, as well as in theory, and also upon the conviction of a majoritity of the people that it was a standing menace to the honesty, purity, and safety of the Government to perpetuate in these offices partisan officials who had procured their positions by partisan service, and employed their emoluments, power, and influence for personal gain, and as aids in securing party supremacy.

The party to whom the President owes his nomination and election has been exiled

from all participatien in the civil administration of the Government for nearly a quarter of a century, and it seemed reasonable and just that the five millions of voters who had been thus politically ostracised should be allowed at least a fair share of the offices which had been created for the benefit of the whole people, without regard to party divisions. The friends and supporters of the President made application to him for a redistribution of the public trusts under the Government, so that they might receive, not as the spoils of victory, but as public honors and emoluments, at least a fair share of what was then monopolized by his political apponents, who were and had been unfriendly to Democratic principles and could not be trusted as agents to promote the usefulness and success of Democratic administration.

No other President has ever been subjected to such severe trial or had to meet so many grave difficulties since he entered upon the discharge of the duties of his high office. No other President has ever had, in quantity or quality, such an abundant supply of valid reasons and causes urging him to a free exercise of his power of removal from Federal office; and no other President ever resisted with more firmness the just claims of his supporters, or used his power of removal more conscientiously, cautiously, and sparingly. Nearly twelve months have elapsed since the President's inauguration, and six hundred and fifty will more than cover the whole number of removals or suspensions. Had the number reached as many thousands as hundreds he would not by this time have made an equal division between the two national parties of the offices not embraced in the civil-service law.

Notwithstanding these undeniable facts and circumstances, the six hundred and fifty nominations sent to the Senate in the suspension cases made during the recess of the Senate have been allowed to remain before the committees without consideration and final disposition. In the able and ingenious report of the majority of the committee the Senate and the country are informed for the first time of the grounds and reasons for such long delay and nonaction. The basis and justification for this remarkable procedure by which suspension cases are to be postponed an indefinite period, and important legislative business interrupted, and no purpose served but to agitate and distract the public mind, is the suspension of Duskin from the powers and duties of the office of district attorney of the southern district of Alabama, whose term of office has long since expired, and the nomination of Burnett to take the place. Duskin has made no complaint to the Judiciary Committee, the Senate, the President, or the Attorney-General that he was wronged by the suspension. The Judiciary Committee is in possession of full information showing that Burnett was recommended to the President by all the members of Congress from Alabama, on personal knowledge of his high character and qualifications for the office, and that since he has been in the discharge of its duties he has the unqualified indorsement of the judge and clerk of the district court of the United States, both Republicans.

The resolution of the Senate directs the Attorney-General "to transmit to the Senate copies of all documents and papers that have been filed in the Department of Justice since the first day of January, 1885, in relation to the management and conduct of the office of the district attorney of the United States for the southern district of Alabama." The answer of the Attorney-General is:

"That the papers and documents which are mentioned in said resolution and still remaining in the custody of the Department have exclusive reference to the suspension by the President of George M. Duskin, the late incumbent of the office of district attorney for the southern district of Alabama, and it is not considered that the public interest will be promoted by a compliance with said resolution and the transmission of the papers and documents therein mentioned to the Senate in executive session."

Stripped to the naked truth, without any special pleading, the case made for the decision of the Senate on their resolution, and the answer of the Attorney-General is, whether the Senate has the right to demand of the Attorney-General the transmission, against the order of the President, of the only paper or document of the description mentioned in the resolution, when that paper or document is stated in the refusal to relate exclusively to the removal of Duskin by the President, and for that reason alone not transmitted. The paper shows on its face to what it relates, and it requires the exercise of no judgment to determine its character. The President holds that it is not a public document, and there can be no doubt about the correctness of his decision, which must be accepted as conclusive.

It is an undeniable truth, without qualification or exception in any case, that every right, power, privilege, or prerogative created by any law, or granted in the Constitution to Congress, or any Department or officer of the Government, has some just reason, use, necessity, or foundation for its existence and support. The majority of the Judiciary Committee in their report affirm the right of the Senate in executive session, or in open session, to direct the Attorney General or any head of a Department, or to request the President to transmit to the Senate, in open or executive session, *any paper* on the files of the Department or in the possession of the President, *if such paper relates to an "official act" of the President or the head of any*

Department, although such "official act" is the removal or suspension by the President of a civil officer of the United States.

The minority deny that the claim of the majority of the committee in the case now before the Senate, or in any case where the paper or document relates exclusively or materially to removals or suspensions by the President, has any foundation or recognition to support it in the Constitution, or any valid law, custom, or precedent. The burden rests upon the majority of the committee of showing that the right or power exists in the Senate, under the Constitution, or some law, custom, or precedent, and the reason, use, or necessity for it, to direct the head of any Department, or to request the President to send to the Senate, in open or executive session, any paper, or document, in the President's possession, or on the files of any of the Departments, not public, but relating exclusively, or materially, to his official act of removal or suspension of a civil officer of the United States.

It is difficult for the minority to decide what unmistakable rights, powers, or prerogatives are claimed for the Senate in the report of the majority that are controverted in this proceeding, or that have any bearing, application, or significance whatsoever to the real issue joined between the Senate and the President. The committee seems to think that it strengthens their claim to the papers and documents in question that the order to transmit them is made by the Senate upon the head of a Department. It is broadly asserted in the majority report that "it is within the constitutional competency of either House of Congress to have access to the *official papers* and *documents* in the various public offices." If it is not intended by the majority that this "constitutional competency of either House of Congress to have access to official papers and documents in the various public offices" should embrace papers and documents relating exclusively to removals and suspensions by the President, why make the claim of right in the two Houses so sweeping and comprehensive?

It is admitted in the majority report that no statute confers the right on either House to direct the Attorney-General to send to either House any official papers and documents, but the committee claims that the right exists "as a necessary incident from the very nature of the powers intrusted by the Constitution to the two Houses of Congress;" "that either House must have at all times the right to know all that officially exists or takes place in any of the Departments of the Government." Can any grant of power in the Constitution to either House of Congress be found "that in its very nature requires that either House should have at all times the right to know anything, wherever or in whatever form it may exist, about removals or suspensions of Federal officers by the President?"

The minority admit, once for all, that any and every public document, paper, or record on the files of any Department, or in the possession of the President, relating to any subject whatever, over which either House of Congress has any grant of power, jurisdiction, or control under the Constitution, is subject to the call or inspection of either House for use in the exercise of its constitutional powers and jurisdiction. It is on this clearly-defined and well-founded constitutional principle that, wherever any power is lodged by the Constitution, all incidents follow such power that are necessary and proper to enable the custodian of it to carry it into execution. Whether the power is granted to Congress, or either House, or to the President, or any Department or officer of the Government, or to the President by and with the advice and consent of the Senate, the principle is as fundamental as the Constitution itself that all the necessary incidents of such grants accompany the grants and belong to and can be exercised by the custodians of such powers, jointly or severally, as they may be vested by the Constitution.

It is on the application and enforcement of this unquestioned rule of construction that either House of Congress has the right inherent in the power itself to direct the head of any Department, or request the President to transmit any information in the knowledge of either, or any public or official papers or documents, or their contents, on the files or in the keeping of either, provided such papers or documents relate to subjects, matters, or things in the consideration of which the House making the call can use such information, papers, or documents in the exercise of any right, power, jurisdiction, or privilege granted to Congress, or either House, or to the President by and with the advice and consent of the Senate.

But if all the power granted in the Constitution over the subject-matter or thing to which papers or documents relate, wherever they may be found, is vested by the Constitution in the President exclusively, the only rightful custodian of all such papers or documents, or the information they contain, is the chief executive officer, to whom the Constitution has intrusted all the power its framers were willing to grant over that subject. It would be a reflection upon the common sense of the framers of the Constitution to decide that they had vested in the President and the Senate all the power to make and ratify treaties, and while withholding from the House of Representatives all such power, they had granted, by implication, to the

House of Representatives the right to have access to all the papers and documents upon which the President and Senate had acted in making and ratifying treaties.

Why was the possession or inspection of such papers and documents by the House of Representatives refused by President Washington? For the plain reason that the House of Representatives had no power over treaty-making. It would be equally unreasonable to conclude that the framers of the Constitution had declined to divide the power of removing Federal officers between the President and Senate, and after vesting all such greater power of removal (if it has been done) in the President alone, they should at the same time give to the Senate, by implication, or as a necessary incident of another power, the less right of advising and consenting to removals. That would amount to vesting the principal power of removal in the President, and imposing a limitation upon it, to be found as a mere incident of another and different power of advising and consenting to appointments.

The view enforced by the minority in this report of the vital and paramount question presented from the committee to the Senate, makes it unnecessary to notice the attempt of the majority to make something out of the fact that the resolution of the Senate is directed to the Attorney-General, and that, as he is an officer created by a law of Congress, either House has just as much power over him as the President, except to say that if such reasoning is sound it would compel the Secretary of State to transmit to the House of Representatives on its order all papers and documents relating to the making and ratifying of treaties on file in the State Department, which is also the creation of a law of Congress. Besides, the effort to place the duty of transmitting the papers called for to the Senate upon the head of a Department, as separate and distinct from the President, or to say this is not the act of the President, is not permissible.

The President speaks or acts through the heads of the several Departments in relation to subjects which appertain to their respective duties. This principle is recognized by the Supreme Court in Wilcox *v.* Jackson, 13 Peters, 513, and many subsequent decisions.

Without circumlocution, or evasion, or generalizing, or dealing in subtilities, or refining on irrelevant and misleading cases cited in the majority report, the majority of your committee, after making as diligent a search as time and opportunity allowed, feel satisfied that from 1789 to 1867, a period of seventy-eight years, not a single case can be found and not a single case occurred in which the Senate in executive session, by resolution or otherwise, directed the head of any Department, or requested the President to transmit to the Senate in executive session papers or documents on file, or in the custody of the head of a Department, or the President, relating exclusively or materially to removals of Federal officers by the President during the recess or the sessions of the Senate, and such resolution was obeyed by any head of a Department or the President.

To meet the case squarely, the minority feel the utmost confidence in stating that, during a period of seventy-eight years, from 1789 to 1867, no such resolution as that now before the Senate was ever obeyed by the President or any head of a Department. The majority of the committee says:

"The instances of requests to the President and commands to the heads of Departments by each House of Congress from those days until now for papers and information on every conceivable subject of public affairs are almost innumerable; for it appears to have been thought by all the Presidents who have carried on the Government now for almost a century, that even in respect of requests to them, an independent coördinate branch of the Government, they were under a constitutional duty and obligation to furnish to either House the papers called for, unless, as has happened in very rare instances, when the request was coupled with an appeal to the discretion of the President in respect to the danger of publicity to send the papers, if, in his judgment, it should not be incompatible with the public welfare."

Is this broad statement made as an authority for the call on the Attorney-General to send to the Senate in executive session the papers in his Department relating exclusively to the suspension of Duskin by the President? If not, what purpose is intended to be served by the statement? If intended to sustain the present call on the Attorney-General, would it not be a remarkable coincidence that Washington, who signed the act of Congress declaratory of the exclusive right of the President to make removals, and Madison, whose matchless powers were devoted to the passage of that act, intended as he declared in the debate as a "permanent settlement of the constitutional power of the President to make removals within his discretion without accountability to the Senate," to obey requests, or for his Cabinet officers to obey demands for the transmission of papers to the Senate in executive session, or to either House in open session, relating exclusively to an "official act" of removal, over which he believed he had been intrusted with the sole power by the Constitution? And would it not be equally inexplicable that such a request or demand would have been obeyed by John Quincy Adams, or by Andrew Jackson, "in times of the highest party excitement and stress," in 1826

and 1835? If Adams and Jackson were willing to obey such requests and demands or ever did so, why did Mr. Benton, in 1826, and Mr. Calhoun, in 1835, report bills to the Senate requiring the President to transmit to the Senate the cause of removals and the papers relating thereto, which bills fell still-born, on the table of Senate.

It is not true that a single precedent can be found for a continuous period of seventy-eight years that gives any support whatever to the present demand of the Senate upon the Attorney-General to transmit papers relating exclusively to the removal of Duskin. Every precedent cited in the report of the majority has for its foundation the constitutional power of the Senate to participate with the President in the official act to which the papers called for related. The Senate shares with the President the treaty-making power, and he can make no appointment to office without the advice and consent of the Senate. Upon the subjects of treaty-making and appointments, papers relating thereto, when requested or demanded, have been sent to the Senate, for the plain reason that the President and Senate are jointly intrusted with powers in relation to treaties and appointments which the Senate can not safely and wisely exercise without the inspection of papers and documents relating thereto in the Departments or in the keeping of the President. No such foundation, reason, or necessity exists in the matter of removals from office.

The demand in the present case upon the Attorney-General, and its peristent pressure by the majority of the committee, after he has declined, on the order of the President, to obey it, for the sole reason that the only papers in his Department, filed there since January 1, 1885, relate *exclusively* to the removal of Duskin by the President, *necessarily implies* that in the judgment of a majority of the committee the Senate has the same constitutional power over removals that it has over appointments—that is, the power of advising and consenting thereto. There is no escape from this crucial test of who is in the right in this controversy, the Senate or the President.

The question is the same as that presented in the First Congress in 1789; revived in the Senate in 1826; pressed again in the Senate in 1835; revived again in 1867, when the President was hampered by unconstitutional legislation forced through Congress by a revolutionary majority under the pressure of overruling party necessity; soon revived again by President Grant in 1869, and ending in reactionary legislation, restoring the power and calling it "suspension" from office, to the "*discretion*" of the President, and thereby conferring upon him the power, if he wills to exercise it, of expelling permanently from office any incumbent, with or without cause, and in defiance of any power in the Senate to prevent the President from making the suspension perpetual. The same old struggle again comes up in this Senate without provocation, or any meritorious excuse or justification. In self-defense the President and the friends of his constitutional prerogative in the Senate are again forced to meet and answer the question, "Where does the power of making removals from Federal office reside?" Does the Constitution answer this question? All it says is:

"(1) The executive power shall be vested in a President of the United States of America.

"(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided or, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session.

"(4) He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

The question of the meaning of the above quotations from the Constitution, and what disposition, if any, they make of the power of removing officers of the United States, came up for consideration and settlement by the First Congress in May, 1789. There were many framers of the Constitution in that Congress and none of them had more to do in that great work or were more familiar with its meaning than Mr. Madison. This debate, considered the most remarkable in the history of Congress, is published in "Annals of Congress," 1789, Vol. 1, from pages 372 to 585.

The minority of your committee is satisfied that they are unable to produce anything themselves or from others that can add to what was said in that famous debate on the question reported to the Senate. The decision was made by statesmen fresh from the work of framing the Constitution, and at a time when no political parties had been organized to influence judgment and control opinion. No settlement of

any controverted question ever had higher sanctions or more to commend it to unquestioned acquiescence.

Said Mr. Madison:

"However various the opinions which exist upon the point now before us, it seems agreed on all sides that it demands a careful investigation and full discussion. I feel the importance of the question, and know that our decision will involve the decision of all similar cases. The decision that is at this time made will become the permanent exposition of the Constitution; and on a permanent exposition of the Constitution will depend the genius and character of the whole Government."

The following are extracts from some of the speeches made on that memorable occasion:

Mr. Madison said:

"I think it absolutely necessary that the President should have the power of removing from office; it will make him, in a peculiar manner, responsible for their conduct and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States or neglects to superintend their conduct so as to check their excesses. On the constitutionality of the declaration I have no manner of doubt.

"It is said that it comports with the nature of things that those who appoint should have the power of removal; but I can not conceive that this sentiment is warranted by the Constitution. I believe it would be found very inconvenient in practice. It is one of the most prominent features of the Constitution—a principle that pervades the whole system—that there should be the highest possible degree of responsibility in all the executive officers thereof. Anything, therefore, which tends to lessen this responsibility is contrary to its spirit and intention, and, unless it is saddled upon us expressly by the letter of that work, I shall oppose the admission of it into any act of the legislature.

"Now, if the heads of the executive departments are subjected to removal by the President, we have in him security for the good behavior of the officer. If he does not conform to the judgment of the President in doing the executive duties of his office, he can be displaced. This makes him responsible to the great executive power, and makes the President responsible to the public for the conduct of the person he has nominated and appointed to aid him in the administration of his department. But if the President shall join in a collusion with this officer, and continue a bad man in office, the case of impeachment will reach the culprit and drag him forth to punishment.

"But if you take the other construction, and say he shall not be displaced but by and with the advice and consent of the Senate, the President is no longer answerable for the conduct of the officer; all will depend upon the Senate. You here destroy a real responsibility without obtaining even the shadow; for no gentleman will pretend to say the responsibility of the Senate can be of such a nature as to afford substantial security. But why, it may be asked, was the Senate joined with the President in appointing to office, if they have no responsibility? I answer, merely for the sake of advising, being supposed, from their nature, better acquainted with the character of the candidates than an individual; yet even here the President is held to the responsibility—he nominates, and, with their consent, appoints. No person can be forced upon him as an assistant by any other branch of the Government.

"There is another objection to this construction which I consider of some weight and shall therefore mention to the committee. Perhaps there was no argument urged with more success, or more plausibly grounded against the Constitution, under which we are now deliberating, than that founded on the mingling of the executive and legislative branches of the Government in one body. It has been objected that the Senate have too much of the executive power even by having a control over the President in the appointment to office.

"Now, shall we extend this connection between the legislative and executive Departments which will strengthen the objection and diminish the responsibility we have in the head of the Executive?"

Mr. Sedgwick (Vol. 1, First Congress, p. 460):

"But they say the Senate is to be united with the President in the exercise of this power. I hope, sir, this is not the case, because it would involve us in the most serious difficulty. Suppose a discovery of any of those events which I have just enumerated were to take place when the Senate is not in session, how is the remedy to be applied? This is a serious consideration, and the evil could be avoided no other way than by the Senate's sitting always. Surely no gentleman of this House contemplates the necessity of incurring such an expense. I am sure it will be very objectionable to our constituents; and yet this must be done or the public interest be endangered by keeping an unworthy officer in place until that body shall be assembled from the extremes of the Union.

"It has been said that there is danger of this power being abused, if exercised by one man. Certainly the danger is as great with respect to the Senate who are an-

sembled from various parts of the continent, with different impressions and opinions. It appears to me that such a body is more likely to misuse this power than the man whom the united voice of America calls to the Presidential chair. As the nature of the Government requires the power of removal, I think it is to be exercised in this way by a hand capable of exerting itself with effect, and the power must be conferred upon the President by the Constitution, as the executive officer of the Government."

Mr. Madison said (page 463):

"The Constitution affirms that the executive power shall be vested in the President. Are there exceptions to this proposition? Yes; there are. The Constitution says that in appointing to office the Senate shall be associated with the President, unless in the case of inferior officers, when the law shall otherwise direct. Have we a right to extend this exception? I believe not. If the Constitution has invested all executive power in the President, I venture to assert that the legislature has no right to diminish or modify his executive authority. The question now resolves itself into this: *Is* the power of displacing an executive power? I conceive that if any power whatsoever is in its nature executive, it is the power of appointing, overseeing, and controlling those who execute the laws.

"If the Constitution had not qualified the power of the President in appointing to office, by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointment? Should we be authorized, in defiance of that clause in the Constitution, 'The executive power shall be vested in a President,' to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this, I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first only is authorized by being excepted out of the general rule established by the Constitution in these words, 'The executive power shall be vested in the President.'

"The judicial power is vested in a Supreme Court; but will gentlemen say the judicial power can be placed elsewhere unless the Constitution has made an exception? The Constitution justifies the Senate in exercising a judicary power in determining on impeachments; but can the judicial power be further blended with the powers of that body? They can not. I therefore say it is incontrovertible, if neither the legislative nor judicial powers are subjected to qualifications other than those demanded in the Constitution, that the executive powers are equally unabatable as either of the others; and inasmuch as the power of removal is of an executive nature, and not affected by any Constitutional exception, it is beyond the reach of the legislative body."

Mr. Clymer said (p. 489):

"If I were to give my vote merely on constitutional ground, I should be totally indifferent whether the words were struck out or not; because I am clear that the Executive has the power of removal as incident to his department; and if the Constitution had been silent with respect to the appointment, he would have had that power also. The reason, perhaps, why it was mentioned in the Constitution, was to give some further security against the introduction of improper men into office. But in cases of removal there is not such necessity for this check. What great danger would arise from the removal of a worthy man, when the Senate must be consulted in the appointment of his successor? Is it likely they will consent to advance an improper character? The presumption therefore is, that he would not abuse this power; or, if he did, only one good man would be changed for another.

"If the President is divested of his power, his responsibility is destroyed; you prevent his efficiency, and disable him from affording security to the people which the Constitution contemplates. What use will it be of to call the citizens of the Union together every four years to obtain a purified choice of a representative, if he is to be a mere cipher in the Government? The Executive must act by others; but you reduce him to a mere shadow, when you control both the power of appointment and removal; if you take away the latter power, he ought to resign the power of superintending and directing the executive parts of Government into the hands of the Senate at once, and then we become a dangerous aristocracy, or shall be more destitute of energy than any Government on earth. These being my sentiments, I wish the clause to stand as a legislative declaration, that the power of removal is constitutionally vested in the President."

Mr. Madison said (p. 495):

"However various the opinions which exist upon the point now before us, it seems agreed on all sides that it demands a careful investigation and full discussion. I feel the importance of the question, and know that our decision will involve the decision of all similar cases. The decision that is at this time made will become the permanent exposition of the Constitution, and on a permanent exposition of the Constitution will depend the genius and character of the whole Government. It will depend, per-

haps, on this decision whether the Government shall retain that equilibrium which the Constitution intended, or take a direction towards aristocracy or anarchy among the members of the Government. Hence, how careful ought we be to give a true direction to a power so critically circumstanced.

"It is incumbent on us to weigh with particular attention the arguments which have been advanced in support of the various opinions with cautious deliberation. I own to you, Mr. Chairman, that I feel great anxiety upon this question. I feel an anxiety because I am called upon to give a decision in a case that may affect the fundamental principles of the Government under which we act, and liberty itself. But all that I can do on such an occasion is to weigh well everything advanced on both sides with the purest desire to find out the true meaning of the Constitution, and to be guided by that and an attachment to the true spirit of liberty, whose influence I believe strongly predominates here.

"Several constructions have been put upon the Constitution relative to the point in question. The gentleman from Connecticut (Mr. Sherman) has advanced a doctrine which was not touched upon before. He seems to think (if I understand him rightly) that the power of displacing from office is subject to legislative discretion; because it, having a right to create, it may limit or modify as it thinks proper. I shall not say but at first view this doctrine may seem to have some plausibility; but when I consider that the Constitution clearly intended to maintain a marked distinction between the legislative, executive, and judicial powers of Government; and when I consider that if the legislature has a power such as is contended for, they may subject and transfer at discretion powers from one Department of our Government to another; they may, on that principle, exclude the President altogether from exercising any authority in the removal of officers; they may give it to the Senate alone, or the President and Senate combined; they may vest it in the whole Congress, or they may reserve it to be exercised by this House. When I consider the consequences of *this* doctrine, and compare them with the true principles of the Constitution, I own *that* I can not subscribe to it.

"The doctrine, however, which seems to stand most in opposition to the principles I contend for, is, that the power to name an appointment is, in the nature of things, incidental to the power which makes the appointment. I agree that if nothing more was said in the Constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be a great force in saying that the power of removal resulted by a natural implication from the power of appointing. But there is another part of the Constitution no less explicit than the one on which the gentleman's doctrine is founded. It is that part which declares that the executive power shall be vested in a President of the United States. The association of the Senate with the President in exercising that particular function is an exception to this general rule; and exceptions to general rules, I conceive, are ever to be taken strictly.

"But there is another part of the Constitution which inclines, in my judgment, to favor the construction I put upon it; the President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. Now, if the officer when once appointed is not to depend upon the President for his official existence, but upon a distinct body (for where there are two negatives required, either can prevent the removal), I confess I do not see how the President can take care that the laws be faithfully executed. It is true, by a circuitous operation he may obtain in impeachment, and even without this it is possible he may obtain the concurrence of the Senate for the purpose of displacing an officer; but would this give that species of control to the Executive Magistrate which seems to be required by the Constitution?

"I own, if my opinion was not contrary to that entertained by what I suppose to be the minority on this question, I should be doubtful of being mistaken when I discovered how inconsistent that construction would make the Constitution with itself. I can hardly bring myself to imagine the wisdom of the convention who framed the Constitution contemplated such incongruity.

There is another maxim which ought to direct us in expounding the Constitution and is of great importance. It is laid down in most of the constitutions or bills of rights in the republics of America; it is to be found in the political writings of the most celebrated civilians, and is everywhere held as essential to the preservation of liberty, that the three great departments of Government be kept separate and distinct; and if in any case they are blended, it is in order to admit a partial qualification, in order more effectually to guard against an entire consolidation.

"I think, therefore, when we review the several parts of this Constitution where it says that the legislative powers shall be vested in a Congress of the United States, under certain exceptions, and the executive powers vested in the President with certain exceptions, we must suppose they were intended to be kept separate in all cases

in which they are not blended, and ought, consequently, to expound the Constitution so as to blend them as little as possible. Everything relative to the merits of the question, as distinguished from a constitutional question, seems to turn on the danger of such a power vested in the President alone; but when I consider the checks under which he lies in the exercise of this power, I own to you I feel no apprehension but what arises from the dangers incidental to the power itself, for dangers will be incidental to it vest it where you please.

"I will not reiterate what was said before with respect to the mode of election, and the extreme improbability that any citizen will be selected from the mass of citizens who is not highly distinguished by his abilities and worth; in this alone we have no small security for the faithful exercise of this power. But, throwing that out of the question, let us consider the restraints he will feel after he is placed in that elevated station. It is to be remarked that the power in this case will not consist so much in continuing a bad man in office as in the danger of displacing a good one. Perhaps the great danger, as has been observed, of abuse in the executive power lies in the improper continuance of bad men in office. But the power we contend for will not enable him to do this; for if an unworthy man be continued in office by an unworthy President, the House of Representatives can at any time impeach him, and the Senate can remove him, whether the President chooses or not.

"The danger then consists merely in this: The President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power, and the restraints that operate to prevent it? In the first place, he will be impeachable by this House before the Senate for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. But what can be his motives for displacing a worthy man? It must be that he may fill the place with an unworthy creature of his own. Can he accomplish this end? No; he can place no man in the vacancy whom the Senate shall not approve; and, if he could fill the vacancy with the man he might choose, I am sure he would have little inducement to make an improper removal. Let us consider the consequences. The injured man will be supported by the proper opinion; the community will take sides with him against the President; it will facilitate those combinations and give success to those exertions which will be pursued to prevent his reëlection.

"To displace a man of high merit, and who from his station may be supposed a man of extensive influence, are considerations in the mind of any man who may fill the Presidential chair. The friends of those individuals and the public sympathy will be against him. If this should not produce his impeachment before the Senate, it will amount to an impeachment before the community, who will have the power of punishment, by refusing to reëlect him. But suppose this persecuted individual can not obtain revenge in this mode, there are other modes in which he could make the situation of the President very inconvenient, if you suppose him resolutely bent on executing the dictates of resentment. If he had not influence enough to direct the vengeance of the whole community, he may probably be able to obtain an appointment in one or the other branch of the legislature, and, being a man of weight, talents, and influence, in either case he may prove to the President troublesome indeed.

"We have seen examples in the history of other nations which justifies the remark I now have made. Though the prerogatives of the British King are great as his rank, and it is unquestionably known that he has a positive influence over both branches of the legislative body, yet there have been examples in which the appointment and removal of ministers have been found to be dictated by one or other of those branches. Now, if this be the case with an hereditary monarch possessed of those high prerogatives and furnished with so many means of influence, can we suppose a President, elected for four years only, dependent upon the popular voice, impeachable by the legislature, little, if at all, distinguished for wealth, personal talents, or influence from the head of the Department himself, I say will he bid defiance to all these considerations, and wantonly dismiss a meritorious and virtuous officer? Such abuse of power exceeds my conception. If anything takes place in the ordinary course of business of this kind, my imagination can not extend to it on any rational principle.

"But let us not consider the question on one side only; there are dangers to be contemplated on the other. Vest this power in the Senate jointly with the President, and you abolish at once that great principle of unity and responsibility in the executive department which was intended for the security of liberty and the public good. If the President should possess alone the power of removal from office, those who are employed in the execution of the law will be in their proper situation, and the claim of dependence be preserved; the lowest officers, the middle grade, and the highest will depend, as they ought, on the President, and the President on the community. The chain of dependence, therefore, terminates in the supreme body,

namely, in the people, who will possess, besides, in aid of their original power, the decisive engine of impeachment.

"Take the other supposition, that the power should be vested in the Senate, on the principle that the power to displace is necessarily connected with the power to appoint. It is declared by the Constitution that we may by law vest the appointment of inferior officers in the heads of Departments; the power of removal being incidental, as stated by some gentlemen. Where does this terminate? If you begin with the subordinate officers, they are dependents, on their superior, he on the next superior, and he on—whom? On the Senate, a permanent body; a body by its particular mode of election in reality existing forever; a body possessing that proportion of aristocratic power which the Constitution no doubt thought wise to be established in the system, but which some have strongly excepted against.

"And let me ask, gentlemen, is there equal security in this case as in the other? Shall we trust the Senate, responsible to individual legislatures, rather than the person who is responsible to the whole community? It is true, the Senate do not hold their offices for life, like aristocracies recorded in the historic page; yet the fact is, they will not possess that responsibility for the exercise of executive powers which would render it safe for us to vest such powers in them. But what an aspect will this give to the Executive? Instead of keeping the Departments of the Government distinct, you make an Executive out of one branch of the legislature; you make the Executive a two-headed monster, to use the expression of the gentleman from New Hampshire (Mr. Livermore); you destroy the great principle of responsibility, and perhaps have the creature divided in its will, defeating the very purposes for which a unity in the Executive was instituted.

"These objections do not lie against such an arrangement as the bill establishes. I conceive that the President is sufficiently accountable to the community, and if this power is vested in him it will be vested where its nature requires it should be vested; if anything in its nature is executive, it must be that power which is employed in superintending and seeing that the laws are faithfully executed. The laws can not be executed but by officers appointed for that purpose; therefore, those who are over such officers naturally possess the executive power. If any other doctrine be admitted, what is the consequence? You may set the Senate at the head of the executive department, or you may require that the officers hold their places during the pleasure of this branch of the legislature, if you can not go so far as to say we shall appoint them, and by this means you link together two branches of the Government which the preservation of liberty requires to be constantly separated."

The following are the judicial recognitions and sanctions of the validity and binding character of the settlement made of this great question in 1789. Chancellor Kent, in his Commentaries, vol. 1, 10th ed., p. 346, uses the following language:

"This [meaning the settlement in 1789] amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon, as of decisive authority in the case. It applies equally to every other officer of Government appointed by the President and Senate whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of that department, because he is invested generally with the executive authority, and every participation in that authority by the Senate was an exception to a general principle and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty and might often be requisite to fulfill it. It may now be considered as firmly and definitely settled, and there is good sense and practical utility in the construction."

The Supreme Court of the United States, in ex parte Hennen (13 Peters, p. 259), says:

"It was very early adopted as the practical construction of the Constitution that the power of removal was vested in the President alone, and such would appear to have been the legislative construction of the Constitution. For in the organization of the three great Departments of State, War, and Treasury, in the year 1789, provision is made for the appointment of a subordinate officer by the head of the Department, who should have the charge and custody of the records, books, and papers appertaining to the office, when the head of the Department should be removed from the office of the President of the United States. (1 Story, 5, 31, 47.)

"When the Navy Department was established, in the year 1798 (1 Story, 498), provision is made for the charge and custody of the books, records, and documents of the Department, in case of vacancy in the office of Secretary by removal or otherwise. It is not here said, by removal by the President, as is done with respect to the heads of the other Departments; and yet there can be no doubt that he holds his office by the same tenure as the other Secretaries, and is removable by the President. The change of phraseology arose probably from its having become the settled and well-understood construction of the Constitution that the power of removal was vested

in the President alone in such cases, although the appointment of the officer was by the President and Senate."

Again, the Supreme Court of the United States, in Blake's case (U. S. Repts., Vol. 103, p. 232), quoted approvingly its antecedent decision, in the following language:

"But it was very early adopted as the practical construction of the Constitution that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution."

In Kilbourn *v.* Thompson (103 U. S. Rep.) the identical principles involved in the present conflict between the Senate and President are elaborately considered and decided.

Justice Miller, delivering the opinion of the court, said:

"It is believed to be one of the chief merits of the American system of written constitutional law, that all the powers intrusted to government, whether State or national, are divided into the three grand departments—the executive, the legislative, and the judicial.

"That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants, and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. It is also essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.

"To these general propositions there are in the Constitution of the United States some important exceptions. One of these is, that the President is so far made a part of the legislative power that his assent is required to the enactment of all statutes and resolutions of Congress. This, however, is so only to a limited extent, for a bill may become a law notwithstanding the refusal of the President to approve it, by a vote of two-thirds of each House of Congress. So, also, the Senate is made a partaker in the functions of appointing officers and making treaties, which are supposed to be properly executive, by requiring its consent to the appointment of such officers and the ratification of treaties. The Senate also exercises the judicial power of trying impeachment, and the House of preferring articles of impeachment.

"In the main, however, that instrument, the model on which are constructed the fundamental laws of the States, has blocked out with singular precision, and in bold lines, in its three primary articles, the allotment of power to the executive, the legislative, and the judicial departments of the Government. It also remains true, as a general rule, that the powers confided by the Constitution to one of these departments *can not* be exercised by another. It may be said that these are truisms which need no repetition here to give them force. But while the experience of almost a century has in general shown a wise and commendable forbearance in each of these branches from encroachments upon the others, it is not to be denied that such attempts have been made, and it is believed not always without success.

"The increase in the number of States, in their population and wealth, and in the amount of power, if not in its nature, to be exercised by the Federal Government, presents powerful and growing temptation to those to whom that exercise is intrusted to overstep the just boundaries of their own department and enter upon the domain of one of the others, or to assume powers not intrusted to either of them.

"The House of Representatives, having the exclusive right to originate all bills for raising revenue, whether by taxation or otherwise; having, with the Senate, the right to declare war, and fix the compensation of all officers and servants of the Government, and vote the supplies which must pay that compensation; and being also the most numerous body of all those engaged in the exercise of the primary powers of the Government, is for these reasons least of all liable to encroachment upon its appropriate domain. By reason, also, of its popular origin, and the frequency with which the short term of office of its members requires the renewal of their authority at the hands of the people—the great source of all power in this country—encroachments by that body on the domain of coördinate branches of the Government would be received with less distrust than a similar exercise of unwarranted power by any other department of the Government. It is all the more necessary, therefore, that the exercise of power of this body, when acting separately from and independently of all other depositories of power, should be watched with vigilance, and when called in question before any other tribunal having the right to pass upon it, that it should receive the most careful scrutiny.

"In looking to the preamble and resolution under which the committee acted, before which Kilbourn refused to testify, we are of opinion that the House of Representatives not only exceeded the limits of its own authority, but assumed a power which could only be properly exercised by another branch of the Government, because it was in its nature clearly judicial.

"The Constitution declares that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. If what we have said of the division of the powers of the Government among the three departments be sound, this is equivalent to a declaration that no judicial power is vested in the Congress or either branch of it, save in the cases specifically enumerated, to which we have referred. If the investigation which the committee was directed to make was judicial in its character, and could only be properly and successfully made by a court of justice, and if it related to a matter wherein relief or redress could be had only by a judicial proceeding, we do not, after what has been said, deem it necessary to discuss the proposition that the power attempted to be exercised was one confided by the Constitution to the judicial and not to the legislative department of the Government. We think it equally clear that the power asserted is judicial and not legislative.

"If, indeed, any purpose had been avowed to impeach the Secretary, the whole aspect of the case would have been changed. But no such purpose is disclosed. None can be inferred from the preamble, and characterization of the conduct of the Secretary by the term improvident, and the absence of any words implying suspicion of criminality, repel the idea of such purpose, for the Secretary could only be impeached for 'high crimes and misdemeanors.' How could the House of Representatives know, until it had been fairly tried, that the courts were powerless to redress the creditors of J. Cooke & Co.? The matter was still pending in a court, and what right had the Congress of the United States to interfere with a suit pending in a court of competent jurisdiction?

"Again, what inadequacy of power existed in the court, or, as the preamble assumes, in all courts to give redress which could lawfully be supplied by an investigation by a committee of one House of Congress, or by any act or resolution of Congress on the subject? The case being one of a judicial nature, for which the powers of the courts usually afford the only remedy, it may well be supposed that those powers were more appropriate, and more efficient in aid of such relief than the powers which belong to a body whose function is exclusively legislative.

"If the settlement to which the preamble refers as the principal reason why the courts are rendered powerless was obtained by fraud, or was without authority, or for any conceivable reason could be set aside or avoided, it should be done by some appropriate proceeding in the court which had the whole matter before it, and which had all the power in that case proper to be intrusted to anybody, and not by Congress or by any power to be conferred on a committee of one of the two Houses.

"The resolution adopted as a sequence of this preamble contains no hint of any intention of final action by Congress on the subject. In all the argument of the case no suggestion has been made of what the House of Representatives or the Congress could have done in the way of remedying the wrong of securing the creditors of Jay Cooke & Co., or even the United States. Was it to be simply a fruitless investigation into the personal affairs of individuals? If so, the House of Representatives had no power or authority in the matter more than any other equal number of gentlemen interested for the government of their country. By 'fruitless' we mean that it could result in no valid legislation on the subject to which the inquiry referred."

The supreme court of Pennsylvania in a well-considered case, reported in Penn. State Reports, Vol. 103, p. 486, used the following language:

"In considering where the power of removal is lodged, we may draw some light from the interpretation given to the Constitution of the United States. It declares that the President 'shall nominate, and by and with the advice and consent of the Senate shall appoint,' officers therein named. It is silent on the question of removal of any officer, but declares the judges, both of the supreme and inferior courts, shall hold the offices during good behavior. As to other officers, Congress in 1789 affirmed the right of removal to exist in the President, without any coöperation of the Senate. That view was acquiesced in as the true construction of the Constitution until the passage by Congress of the tenure-of-office act of the 2d of March, 1867, which was superseded by the act of 5th April, 1869, of a modified character. Apart from this legislation, the fact that the consent of the Senate was necessary to authorize the President to appoint, did not prevent him from removing the officers at his pleasure."

Mr. Webster is paraded as an authority to support the present claim of the Senate. In the great debate on "Executive patronage," in 1835, Mr. Webster spoke as follows:

"The bill before the Senate, it must be observed, expressly recognizes and admits the actual existence of the power of removal. I do not mean to deny, and the bill does not deny, that at the present moment the President may remove these officers at will, because the early decision adopted that construction, and the laws have since uniformly sanctioned it; the law of 1820 expressly affirms the power. I consider it, therefore, a settled point; settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute.

"At the same time I am very willing to say that, after considering the question again and again within the last six years, in my deliberate judgment the original decision was wrong. I can not but think that those who denied the power in 1789 had the best of the argument, and yet I will not say that I know myself so thoroughly as to affirm that this opinion may not have been produced in some measure by that abuse of the power which has been passing before our eyes for several years. It is possible that this experience of the evil may have affected my view of the constitutional argument."

Senator Thurman, in the protracted debate, in 1869, on the bill to repeal the tenure-of-office act, used the following language:

"Believing that the original interpretation of the Constitution is the correct one; that the power of removal from office is an executive power; that the duty of exercising that power is enjoined upon the President by the provision of the Constitution that he shall take care that the laws be faithfully executed; believing that the assent of the Senate is not a necessary and logical result that the Senate consents to appointments; believing that no such inference follows from the concurrence of the Senate in making appointments, and believing, also, that it is wiser that it should be as our fathers settled it, that the offices will be better filled and the laws more faithfully executed if this power is vested in the President alone, I feel bound to vote for an unqualified repeal of the tenure-of-office act."

Senator Morton, in the same debate, in 1869, spoke as follows:

"It was said by the Senator from Illinois that from the beginning men's minds have divided upon the question as to whether this power of removal existed in the Executive absolutely or in connection with the Senate. That the President might exercise it absolutely in the absence of legislation or restriction is confessed by the continued practice of the Government for seventy-eight years, down to 1867.

"But the Senator says the minds of men were divided before that time on the question. Sir, that division did not amount to much. There have been very few questions raised in this country that there has not been something said on both sides within the last seventy or eighty years; but there has been as strong a union of opinion in favor of the exercise of this power by the Executive, in the absence of legislation, as can be found, perhaps, upon the exercise of any other power that is granted by the Constitution. Moreover, there has been a great unity of sentiment from the first that legislation upon that power was not desirable.

"My understanding of the tenure-of-office act is that it was adopted for a special purpose; that it was special in its character; that it was intended to meet a condition of things that had never occurred before in the administration, and which we hope will never occur again. It was not made for all future Presidents. Sir, let me ask this question: If the tenure-of-office act had not been passed when it was, and was not now the law of the land, would it enter into the head of any Senator, of any member of Congress, now to pass such a law? The enactment of the law was brought about by a peculiar state of public affairs."

Senator Sherman, in the same debate, in 1869, used the following language:

"But now, when we appeal to the Senate to yield to the President the same power of removal that has been exercised by Washington, and every President from Washington down to Johnson, we are referred to old manuscripts that have never been printed before; we are referred to the debates of Webster, and Clay, and Calhoun, etc.

"What is the secret of the whole of it? Why, sir; during Washington's administration the anti-Federalists were opposed to Washington, and opposed to his appointing power; they opposed conferring upon Washington the power to remove the Secretary of State. After Washington's administration expired, and John Adams served his fitful four years, with a majority much of the time in both Houses against him, where were those gentlemen then with their notions about the power of the President and the power of removal? In the time of Jefferson and Madison and Monroe, where were those gentlemen who were afraid of Executive authority? Did they propose to repeal any of the laws passed in the time of Washington? Not at all. In the time of John Quincy Adams, Mr. Benton made a speech, which has been read. Then John C. Calhoun, who had quarreled with Andrew Jackson, took up the banner of Benton and made Benton's speech over again, and Mr. Webster and Mr. Clay joined in. If there was so much danger of this Executive power, why did not the Democratic party, with a large majority in both Houses, and with a President on their side, repeal these old laws which conferred upon the President the power of removal?

"It always has been so, and it always will be so. Notwithstanding all that will be written and said, the *ins* will try to limit the power of the *outs*, and the *outs* will try to limit the power of the *ins*. There is no doubt about it. When the Democrats are in power the Republicans seek to limit their power. When the Republicans are in power the Democrats, on the other hand, seek to limit their power. So it has been in all times, and I do not think we are any wiser or better than our fathers, and probably no worse."

But the crowning indorsement of the settlement of this question by our fathers in 1789, and how it should now be regarded, is contained in the great speech of the distinguished Senator from New York (Mr. Evarts), who always weighs well the full force and meaning of every word he utters. On the impeachment trial of Andrew Johnson (one among other specifications being that he had, without cause, removed Secretary Stanton), Mr. Evarts used the following language:

"The Congress of 1789 decided, and its successors for three-quarters of a century acquiesced in that doctrine. I will not weary the Senate with a thorough analysis of the debate of 1789. It is, I believe, decidedly the most important debate in the history of Congress. It is, I think, the best-considered debate in the history of the Government. I think it included among its debaters as many of the able, wise, and learned men, the benefit of whose public service this nation has ever enjoyed, as any debate or measure which this Government has ever had or entertained. The premises in the Constitution were very narrow. The question of removal from office, as a distinct subject, had never occurred to the minds of the men of the convention. The tenure of office was not to be made permanent except in the case of judges of the Supreme Court. The periodicity of Congress, of the Senate, and of the Executive was fixed. Then there was an attribution of the whole interior administrative official powers of the Government to the Executive, with the single qualification, exceptional in itself, that the advice and consent of the Senate should be required as a negative on the President's nomination only.

"If on these grounds you dismiss the President from this court convicted and deposed, you dismiss him the victim of the Congress and the martyr of the Constitution by the very terms of your judgment, and you throw open for the masters of us all, in the great debates of an intelligent, instructed, fearless, practical nation of freemen, division of sentiment to shake this country to its center—the omnipotence of Congress as the rallying cry on one side, and the supremacy of the Constitution on the other."

The minority of your committee beg leave to call the attention of the Senate to a few of the most conspicuous and illustrious protests against the wisdom of any attempt by the Senate to usurp the President's power of removal.

Senator Morton, in his speech on the bill to repeal the "tenure-of-office act," in 1869, spoke as follows:

"What is the effect when the Senate becomes a tribunal for the trial of the causes for which men are suspended? Scarcely any officer can be found of any importance who will not have some Senator upon this floor as his friend, and that Senator will stand up and inquire, 'What are the causes for which this man has been suspended? I have known him; he is my friend; perhaps I secured him the appointment, and I can not consent to his removal unless there is some tangible and sufficient cause made out.' Then the Senate must enter upon the investigation. They must examine into the causes of this man's suspension. Is he an honest officer? If not, what has he done? If he is an incapable officer, wherein has he failed? These are questions we must pass upon.

"Each one of these suspensions is a case. If we concur in the suspension after examination, the officer goes out of this chamber with a blemish upon his character which he can scarcely outlive. If we refuse to concur in the suspension, we say to the world the President has done this man injustice, either intentionally or unintentionally. If he acted in good faith, he acted in ignorance; if he was well informed, then he acted in bad faith, or out of malicious feelings toward this man.

"The President is in some respects on trial also; and as he is to be put on trial, as to whether his judgment has been intelligent, or has been an honest one in regard to the man suspended, he must feel a great deal of interest in the result; and if he is to be adjudged in this way he will hesitate a long time before he makes the suspension. He may be satisfied in his own mind that an officer is not doing right, but unless he can procure facts that are tangible in themselves, and that can be laid definitely before the Senate, or can be stated intelligently before a jury, he will not suspend that man, and the maladministration goes on. Will you tell me, sir, that any administration can be conducted efficiently under the operation of that law?

"Now, Mr. President, let me suppose that this law remains in force, what will be the effect of it? When we come back here in the month of December, we shall find a long docket of these cases of suspension, perhaps several hundred of them, and they will have to be tried one by one. We take up the first case. That perhaps takes one afternoon, or one entire executive session; it may be two or three, and I tell you, sir, that this Senate will not have time, if it devotes its whole time to the consideration of these cases, to pass upon them if the President shall suspend every officer that in his judgment ought to be suspended for dishonesty or inefficiency. It will impose upon the Senate a labor that it can not perform. It will be physically impossible for it to discharge that labor.

"There must be a responsibility somewhere. The very essence of successful administration under every constitutional government is that the responsibility shall

be distinctly located somewhere. Suppose he suspends an officer, and the Senate does not concur in that suspension; that part of the responsibility then belongs to the Senate. It is divided between some sixty or seventy gentlemen on this floor, and the share of each gentleman is very small. If the responsibility is placed between the President and Senate, neither of them will have the whole of it. We divide it up until it amounts to nothing."

Again we quote from the well-considered speech of Senator Sherman in the same debate:

"Has the Senator from Vermont arrived at that exemplary and forgiving state of mind that he would not be willing to remove any man who disagreed with him in opinion, or, in other words, who was a Democrat, unless he could be convicted of crime upon satisfactory evidence?

"Mr. EDMUNDS. Permit me to ask the Senator whether I ought not to have arrived at that virtuous point on true principles of government, whether I have or not?

"Mr. SHERMAN. I do not think so. I believe that all the leading officers of this Government ought to be in harmony with the political sentiments of the majority, and that although the doctrine of Governor Marcy was rather too bluntly stated in his expression that "to the victors belong the spoils," yet in actual practice, in theory, and in fact no administration of this Government ever did or ever will exist without practically acting upon the rule that to the successful party belong the great offices of the Government. It may not be according to the theoretical codes of morality and public policy which the Federalists talked of when the Democrats were in power, and which the Democrats talked of when the Federalists were in power, but still it is a rule of practical administration which will always be applied in a republican form of government.

"Now, in my judgment, the tenure-of-office law can not, with due regard to the public interest, be practically enforced. What has been our experience within two years? When we came back here we were met with piles of documents which the President sent to us; various papers showing that certain officers of the Government had performed acts which in his judgment amounted to misdemeanor, etc., and for which they were suspended. He gave us specific facts and evidence. These cases were referred to the appropriate committees. What were we called upon to examine? We had to take up and carefully read piles of papers and examine each particular case, like a chancellor or a judge of assize. Every suspended officer contended that he was the most innocent man born since the time of Adam. He demanded a trial, and copies of charges and proof and a formal hearing before the committees of this body, he converting us into a court and jury to try his particular case. If we could not try him, why demand charges and evidence?

"If the tenure-of-office act was right in principle we were bound to examine each case to see whether or not the accused officer was, according to the language of the law, guilty of misconduct in office or crime, or had become incapable or legally disqualified. 'The result was that some of the committees of this body could not transact their business. These cases were referred, and after great delay were reported upon. In one case the accused was tried, convicted, and sent to the penitentiary while we were deliberating whether he was properly suspended or not.' The result was that we did not and could not determine them.

"There probably will be from five hundred to five thousand removals during the next year in the service of the United States in the ordinary course of the business of this country. The number of officers to whose appointment the confirmation of his body is required I should estimate in round numbers at from five to twenty thousand. We know there are great multitudes of them whose appointments require the confirmation of the Senate. If we have to remain here, and act upon the cases of all removals, in order to evade the second section, we put ourselves to a great deal of unnecessary trouble merely to evade one of our own laws. If we adjourn, and leave the President without any power to remove, and only the power of suspension, his hands are effectually tied. He can not suspend a postmaster, or a revenue officer, or any of this vast multitude of officers, unless he is prepared upon satisfactory evidence to make out a case of crime or misconduct in office.

"It is practically impossible thus to administer the Government. The practical effect of the tenure-of-office act is to keep bad men in office, to divide the responsibility for their misconduct, to enable the President to shield himself from responsibility, and to destroy the energy, efficiency, and unity absolutely necessary in the executive administration of various departments of the Government. That was the practical effect.

"Now, Mr. President, look at the actual result as we know it existed. It was the common practice for applicants for office to run here to members of the Senate and say: 'I can get an appointment if I am sure of confirmation.' There was not a member of the Senate who was not pressed constantly by his constituents to pass his judgment in advance on the question of confirmation and before his appointment—'I can get the appointment if I am sure of confirmation,' which reversed the whole

order of proceeding in filling the offices of the Government. The Senate became the appointing power; that was the course of business. The result was that many men who had an acute sense of honor, who wished to be free from all this kind of double complication, would not seek or accept office under an administration so hampered and controlled.

"The duty of the Senate is to advise and consent to appointments. The Constitution confers on this body no power to remove. We consent to removals; we advise as to confirmations. When a man is removed from office, and another name is sent here, we pass simply upon his qualification and fitness for the office; but the Constitution confers upon us no power to proceed in the removal. That is conferred only by the tenure-of-office act. Nowhere else do we derive such a power. By the tenure-of-office act the power of removal, as well as the power of confirmation, is conferred on the Senate; and I say with such a power invested in the Senate it will be impossible to avoid controversy and collision between the Executive power and the Senate. We shall share in and finally monopolize the power of the Executive over all the offices of the Government.

"Senators must very easily draw distinction between the power of removal and the power of confirmation. The power of confirmation is a resulting power, depending on the previous act of another officer of the Government; and all we say in our act of confirmation is whether or not the person named is a man fit to discharge the duties of the office. That power can not and will not be abused; but the power of removal is a very different power, a power never contemplated to be invested in the Senate.

"It seems to me that we are now acting as judges in our own case. If this great power of the Senate is maintained to prevent the removal of any officer of this Government, it is maintained by the Senate for its own behalf. The public judgment will say that, although we are not nominally interested, we are maintaining powers that were never conferred upon the Senate until two years ago, and which were then conferred for a special purpose. In my opinion we ought to be careful that *our judgment* should be impartial, and not to be influenced by a love of power.

* * * * * * *

"We share in one-half of the legislative authority of this Government. We are judges over all officers in the trial of impeachment. We participate with the Executive in the power of appointing to office, also in the power to make treaties. I ask if all these great powers are not sufficient for the ambition of any Senate.

* * * * * * * *

"As a general rule, it is not wise to mingle the powers of the various departments of the Government. There are three great divisions or departments of the Government that stand apart from each other. They form the triangle of public safety, and upon them rest the safety, order, and good conduct of society. These are the legislative, the executive, and the judicial departments. They have been in exceptional cases mingled. The Senate shares with the President in the appointing power, and also shares with the President in the treaty-making power, etc. It is not wise in my judgment to overlook this division of powers."

The foregoing overwhelming array of authorities, reasons, and arguments, demonstrate conclusively the far-seeing wisdom and statesmanship of the settlement of the great question now before the Senate by our fathers in 1789. No one had the temerity to disturb it until 1814, during the administration of Mr. Madison.

In the debate in 1835, found in Congressional Debates, vol. 11, part 1, p. 530, Senator Grundy said:

"When Mr. Granger, in 1814, was dismissed from the office of Postmaster-General by Mr. Madison, a great sensation was produced both in and out of Congress. This I know, for I was here at that period. Mr. Granger was known to be an able and efficient officer. He was a great favorite with the Democracy of New England. He was not dismissed for any delinquency in the discharge of his public duties. In this state of things the following resolution was introduced into the Senate of the United States, as appears from the second volume, Executive Journal, p. 504. Mr. German submitted the following motion for consideration:

"'*Resolved*, That the President of the United States be, and he is hereby, requested to inform the Senate whether the office of Postmaster-General be now vacant, and if vacant, in what manner the same became vacant.'

"This resolution was rejected by a vote of the Senate, which shows it was the understanding at that time that they had no right to interfere in cases of removal."

This is the only instance, since the decision of the Congress in 1789, in which any member of the Senate has attempted to call on the President for his reasons for removal, until the present Chief Magistrate came into office. In 1830 Mr. Holmes, then a Senator from Maine, introduced a series of resolutions, one of which called for the President's reasons for removals from office, as follows:

"*Resolved*, That the President of the United States be respectfully requested to

communicate to the Senate the number, names, and offices of the officers removed by him since the last session of the Senate, with the reasons for each removal.

"On motion by Mr. Grundy that said motion be postponed indefinitely, it was determined in the affirmative—yeas 24, nays 21."

The tenure-of-office law, passed in 1867, was the first and only legislative interference by the Senate with the President's power of removal, and the objects and exceptional reasons of that act of usurpation have been fully explained by those who aided in its passage. President Grant, in his first annual message in 1869, recommended the total repeal of the tenure-of-office law, for the reason that it would be impossible for him to administer the Government under its operation. The House, by nearly a unanimous vote, recommended the repeal.

The House bill was amended in the Senate as now found in sections 1767 and 1768. Section 1767 is part of the original act, with the material qualification that it is subjected to the control of section 1768. Section 1768 is the controlling part of the whole act as it now exists. That section provides that—

"During any recess of the Senate, the President is authorized, in his discretion, to suspend any civil officer appointed by and with the advice and consent of the Senate, until the end of the next session of the Senate, and to designate some suitable person, subject to be removed, in his discretion, by the designation of another, to perform the duties of such suspended officer in the meantime; and the person so designated shall take the oath and give the bond required by law to be taken and given by the suspended officer, and shall, during the time he performs the duties of such office, be entitled to the salary and emoluments of the office, no part of which shall belong to the officer suspended. The President shall, within thirty days after the commencement of each session of the Senate, except for any office which in his opinion ought not to be filled, nominate persons to fill all vacancies in office which existed at the meeting of the Senate, whether temporarily filled or not, and also in the place of all officers suspended; and if the Senate during such session shall refuse to advise and consent to an appointment in the place of any suspended officer, then, and not otherwise, the President shall nominate another person as soon as practicable to the same session of the Senate for the office."

It must be conceded, as this section expressly provides, that the President's power to suspend a civil officer in vacations of the Senate is "discretionary," and that such suspended officer remains out of the office at least until the Senate adjourns, when he is again certainly liable to be suspended if reinstated by the operation of section 1768, which is denied by many of the best lawyers in the Senate, and so on, without limitation as to time, or discretion, should the President elect to exercise his power of suspension. On this discretionary power of the President to suspend, as called in the statute, or to remove from office, under the Constitution, the Supreme Court of the United States, in the case of Marbury *vs.* Madison, 1 Cranch's Reports, at p. 165, says:

"By the Constitution of the United States the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience. To aid him in the performance of these duties he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases their acts are his acts, and whatever opinion may be entertained of the manner in which Executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and being intrusted to the Executive, the decision of the Executive is conclusive."

In relation to the exercise by the President of his power of suspension or removal for cause, the distinguished Senator from Vermont (Mr. Edmunds), in the debate on the bill to repeal the tenure-of-office act, used the following language in answer to Senator Morton:

"I say with him that the President of the United States has no business to nominate to us a man—I am now speaking of moral business, because the Constitution gives him a right to nominate as often as he pleases—the President has no right to propose to us to put out one man and put in another, unless there is cause. Now, what is cause? The Constitution has made the cause. The united discretion of the President of the United States and the representatives of the States, that is cause. If the President of the United States thinks for any reason that satisfies his moral nature that it is better to make a change in an office, and proposes it to us, and we are satisfied for any reason that is consonant to our moral sense of right and wrong that that change ought to or may be made, then it is done, and there is cause. My friend may go into a dissertation if he wishes to do so, when it comes to his turn to speak, upon proximate and final cause. There is ever so much discussion in books of philosophy about that.

"But it is cause enough for me, sir, constitutional cause, if the Senator will, when the President of the United States acting, if he is honest, as he always must, upon

a conscientious regard for the public service and a conscientious sense of his responsibility to the people and to God, chooses to send in one man's name for a place that another man holds. When he has done that he has done his duty, whether that cause satisfies my friend and me or not. Then it becomes our opportunity to speak and to consider, and if we are satisfied with the cause, or with any other cause that appeals to our judgment and good sense, the act is accomplished."

We have in this extract the key to the report of the majority of your committee.

The Senator from Vermont, the able chairman of the Judiciary Committee, is entitled to the distinction of being the author of the remarkable discovery that the unqualified, exclusive, and independent power of removing or suspending officers of the United States can be conceded to the President for his free exercise for any cause or reason that may satisfy him, and that the Senate has no right to interfere with or control, in any manner, the use of such power by the President; but that after the President has so exercised his power, and made the suspension for any cause satisfactory to him, and nominates to the Senate a person to take the place of the suspended officer, then the power of the Senate intervenes to "advise and consent to the nomination," which is just as absolute, exclusive, and independent as the President's power to suspend and nominate, and that in the exercise of this power the Senate can decide, with or without cause, or for any cause satisfactory to them, to withhold their advice and consent to the nomination.

The soundness of this proposition may be admitted, as the Senate can arbitrarily exercise any discretionary power; but it leaves the question unanswered whether the Senate has any constitutional or lawful right to request the President or direct the Attorney-General to transmit to the Senate, in executive session, papers and documents in the keeping of either that relate exclusively to suspensions by the President under section 1768 of the tenure-of-office act. Such papers and documents have no existence or character as public documents. They relate solely to a *matter* under the absolute power and control of the President, "in the exercise of *which*," in the language of the Supreme Court, "he is to use his own discretion, and is accountable only to his country in his political character and to his own conscience."

The right of the Senate or House to papers and documents in the keeping of the President or the heads of Departments must be decided by their contents and character and the use that can be made of them in the exercise of any power or jurisdiction intrusted to either House by the Constitution in executive or legislative session. If the papers and documents can instruct or aid either House in the exercise of legislative or executive powers or privileges intrusted to them by the Constitution, the right of either House to the possession of such papers or documents, or their contents, has never been questioned. It is impossible, in the judgment of the minority, for the majority or for the Senate to find the slightest support, excuse, or justification for their claim to the papers and documents relating exclusively to suspensions by the President, except on the ground that the Senate has the same power under the Constitution of advising and consenting to suspensions by the President that they have to advise and consent to his appointments.

There is no ingenuity sufficiently skilled in special pleading to separate the two powers of supension and appointment, and make each absolute and independent of the other, and at the same time claim that the custodian of one power is entitled to all the papers and documents in the sole keeping of the custodian of the other power, and relating exclusively to matters within his jurisdiction.

But it is insisted that the President has no right to know or to inquire what use the Senate intends making of the papers and documents. Can it be seriously urged that if the papers and documents called for are not public, but private, and relate exclusively to the official acts of the President, for which he is under no responsibility to the Senate, the Senate has any right to their possession? Who is to judge whether the papers and documents are public or private—the President, who knows their contents and to what they relate, or the Senate, who has no such information? How is the Senate to pass on the character and contents of the papers and documents before seeing them, and how will it be if after inspection of the papers and documents the Senate decides it has no right to their possession? How can the President possibly avoid knowing what use the Senate intends making of the papers when they show on their face that they can not be made to relate to anything but suspension? And if it were possible for the President to close his eyes to the contents of the papers and documents, and the use that is to be made of them by the Senate, can the right be denied to those Senators who resist the claim of the Senate to have inspection of papers and documents relating exclusively to suspensions by the President, to know what use is intended to be made of the papers and documents by the Senate?

The minority claim to know what use is intended to be made by the majority of your committee of the papers and documents called for and relating exclusively to suspensions, and with that knowledge the minority are satisfied that their possession and use by the Senate is unconstitutional and supported by no law, usage, or

public policy, and that their transmission to the Senate was rightfully refused by the Attorney-General on the order of the President. The minority of your committee can not close their report without expressing surprise at the appearance in the majority report of the following resolution:

"*Resolved*, That the provision of section 1754 of the Revised Statutes declaring—

"'That persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such office, ought to be faithfully and fully put in execution, and that to remove, or to propose to remove, any such soldier whose faithfulness, competency, and character are above reproach, and to give place to another who has not rendered such service, is a violation of the spirit of the law, and of the practical gratitude the people and Government of the United States owe to the defenders of constitutional liberty and the integrity of the Government.'"

Under what action of the Senate does the majority claim the authority to report such a resolution to the Senate for its adoption? What possible connection has the subject mentioned in the resolution with the papers and documents called for in the case of the suspension of Duskin, which is the only matter referred by the Senate to the Judiciary Committee? The information of the minority of your committee is that Duskin never was a Union soldier, but, on the contrary, was either a member of the Confederate army or a Confederate sympathizer in his native State of North Carolina.

The minority of your committee fully indorse section 1754 of the Revised Statutes, and heartily favor its faithful execution; but their information and belief satisfy them that under its operation during the administrations of Republican Presidents partisan and political influences and considerations have governed in a great degree in the selection of the intended beneficiaries of that statute, so that no equal and just distribution has been made by Republican Presidents among the meritorious class described in the law, as is doubtless desired alike by Republican and Democratic soldiers and marines who were comrades in a common cause.

Such unauthorized action of the majority of your committee serves one purpose, and that is to furnish additional proof of what was before manifest, that the object and intent of this extraordinary proceeding is to secure political and partisan advantage and benefit. The inevitable result is to arraign President Cleveland and try him by the Senate, with an unfriendly political majority, for making suspensions in alleged violation of his public pledges and promises not to make removals or suspensions except for cause.

President Cleveland's promises and pledges are part of the published history of the country, and for their faithful performance he denies his responsibility to the Senate, and stands ready for trial by the people. He did make the promise that during the term of a civil officer he would not suspend or remove him for the *sole reason* that he was a Republican. *Merely being a Republican*, if he had been, and was a capable, faithful, and efficient officer, the President declared he would not regard as sufficient cause. But if such officer, *while in office*, had used its power or influence, or emoluments to promote the organization and success of his party, by attending county, district, State, or national conventions, and making himself active as a partisan in elections, the President has publicly declared such conduct and action by any incumbent, however capable, faithful, and efficient in the discharge of his official duties, as a violation of the spirit of the law declaring that civil office is a public trust for public uses, and not to be employed as an element of power in party organizations and elections, and that such conduct would be treated as sufficient cause for suspensions.

The President declines to submit voluntarily to the decision of a tribunal, having no jurisdiction over the question, the sufficiency of such cause for suspensions—especially when his fear is that such conduct in the officer might be regarded by the Republican majority as a reason for the retention of the incumbent in office. The President will never avoid a trial by the people for the exercise of any of his powers or the discharge of any of his official duties, as he will have a fair tribunal on the whole truth. But he declines obedience to any unlawful summons to trial under usurped authority by an unfriendly tribunal on mere papers and documents relating exclusively to suspensions, and containing in nearly every case only a partial statement of the causes, facts, and reasons for his official act of suspension. In a large majority of the cases of suspension, as the minority are informed, the President had information communicated to him orally by persons considered reliable, which it would be impossible for him to remember or reproduce in every case, so as to put the Senate in possession of all the facts which governed him in the suspension, if the Senate had the authority under the Constitution or laws of the United States to call him to an account.

In conclusion, the minority of your committee are gratified at being able to state

that in the Forty-sixth Congress, when the Democrats had a majority in the Senate, no such spectacle as that now exhibited to the country was ever witnessed in the history of its proceedings.

All of which is respectfully submitted.

JAMES L. PUGH.
RICHARD COKE.
GEORGE G. VEST.
HOWELL E. JACKSON.

1st sess. 49th Cong., S. Ex. Doc. No. 80.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO PAPERS ON FILE AND OTHER INFORMATION TOUCHING SUSPENSIONS FROM AND APPOINTMENTS TO OFFICE.

MARCH 1, 1886.—Read, referred to the Committee on the Judiciary, and ordered to be printed.

To the Senate of the United States:

Ever since the beginning of the present session of the Senate, the different heads of the Departments attached to the executive branch of the Government have been plied with various requests and demands from committes of the Senate, from members of such committees, and at last from the Senate itself, requiring the transmission of reasons for the suspension of certain officials during the recess of that body, or for the papers touching the conduct of such officials, or for all papers and documents relating to such suspensions, or for all documents and papers filed in such Departments in relation to the management and conduct of the offices held by such suspended officials.

The different terms from time to time adopted in making these requests and demands, the order in which they succeeded each other, and the fact that when made by the Senate the resolution for that purpose was passed in executive session, have led to a presumption, the correctness of which will, I suppose, be candidly admitted, that from first to last the information thus sought and the papers thus demanded were desired for use by the Senate and its committees in considering the propriety of the suspensions referred to.

Though these suspensions are my executive acts, based upon considerations addressed to me alone, and for which I am wholly responsible, I have had no invitation from the Senate to state the position which I have felt constrained to assume in relation to the same, or to interpret for myself my acts and motives in the premises.

In this condition of affairs, I have forborne addressing the Senate upon the subject, lest I might be accused of thrusting myself unbidden upon the attention of that body.

But the report of the Committee on the Judiciary of the Senate, lately presented and published, which censures the Attorney-General of the United States for his refusal to transmit certain papers relating to a suspension from office, and which also, if I correctly interpret it, evinces a misapprehension of the position of the Executive upon the question of such suspensions, will, I hope, justify this communication.

This report is predicated upon a resolution of the Senate directed to the Attorney-General and his reply to the same. This resolution was adopted in executive session devoted entirely to business connected with the consideration of nominations for office. It required the Attorney-General "to transmit to the Senate copies of all documents and papers that have been filed in the Department of Justice since the 1st day of January, 1885, in relation to the management and conduct of the office of district attorney of the United States of the southern district of Alabama."

The incumbent of this office on the 1st day of January, 1885, and until the 17th day July ensuing, was George M. Duskin, who, on the last day mentioned, was suspended by an executive order, and John D. Burnett designated to perform the duties of said office. At the time of the passage of the resolution above referred to, the nomination of Burnett for said office was pending before the Senate, and all the papers relating to said nomination were before that body for its inspection and information.

In reply to this resolution, the Attorney-General, after referring to the fact that the papers relating to the nomination of Burnett had already been sent to the Senate, stated that he was directed by the President to say that "the papers and documents which are mentioned in said resolution and still remaining in the custody of this Department, having exclusive reference to the suspension by the President of George M. Duskin, the late incumbent of the office of district attorney for the southern district of Alabama, it is not considered that the public interests will be promoted by a compliance with said resolution and the transmission of the papers and documents therein mentioned to the Senate in executive session."

Upon this resolution and the answer thereto the issue is thus stated by the Committee on the Judiciary at the outset of the report:

"The important question, then, is whether it is within the constitutional competence of either House of Congress to have access to the official papers and documents in the various public offices of the United States created by laws enacted by themselves."

I do not suppose that "the public offices of the United States" are regulated or controlled in their relations to either House of Congress by the fact that they were "created by laws enacted by themselves." It must be that these instrumentalities were created for the benefit of the people and to answer the general purposes of government under the Constitution and the laws, and that they are unincumbered by any lien in favor of either branch of Congress growing out of their construction, and unembarrassed by any obligation to the Senate as the price of their creation.

The complaint of the committee, that access to official papers in the public offices is denied the Senate, is met by the statement that at no time has it been the disposition or the intention of the President or any Department of the executive branch of the Government to withhold from the Senate official documents or papers filed in any of the public offices. While it is by no means conceded that the Senate has the right in any case to review the act of the Executive in removing or suspending a public officer upon official documents or otherwise, it is considered that documents and papers of that nature should, because they are official, be freely transmitted to the Senate upon its demand, trusting the use of the same for proper and legitimate purposes to the good faith of that body. And though no such paper or document has been specifically demanded in any of the numerous requests and demands made upon the Departments, yet as often as they were found in the public offices they have been furnished in answer to such applications.

The letter of the Attorney-General in response to the resolution of the Senate in the particular case mentioned in the committee's report was written at my suggestion and by my direction. There had been no official papers or documents filed in his Department relating to the case within the period specified in the resolution. The letter was intended, by its description of the papers and documents remaining in the custody of the Department, to convey the idea that they were not official; and it was assumed that the resolution called for information, papers, and documents of the same character as were required by the requests and demands which preceded it.

Everything that had been written or done on behalf of the Senate from the beginning, pointed to all letters and papers of a private and unofficial nature as the objects of search, if they were to be found in the Departments, and provided they had been presented to the Executive with a view to their consideration upon the question of suspension from office.

Against the transmission of such papers and documents I have interposed my advice and direction. This has not been done, as is suggested in the committee's report, upon the assumption on my part that the Attorney-General or any other head of a Department "is the servant of the President, and is to give or withhold copies of documents in his office according to the will of the Executive and not otherwise," but because I regard the papers and documents withheld and addressed to me or intended for my use and action, purely unofficial and private, not infrequently confidential, and having reference to the performance of a duty exclusively mine. I consider them in no proper sense as upon the files of the Department, but as deposited there for my convenience, remaining still completely under my control. I suppose if I desired to take them into my custody I might do so with entire propriety, and if I saw fit to destroy them no one could complain.

Even the committee in its report appears to concede that there may be with the President, or in the Departments, papers and documents which, on account of their unofficial character, are not subject to the inspection of the Congress. A reference in the report to instances where the House of Representatives ought not to succeed in a call for the production of papers is immediately followed by this statement:

"The committee feels authorized to state, after a somewhat careful research, that within the foregoing limits there is scarcely in the history of this Government, until now, any instance of a refusal by a head of a Department, or even of the President himself, to communicate official facts and information as distinguished from private and unofficial papers, motions, views, reasons, and opinions, to either House of Congress when unconditionally demanded."

To which of the classes thus recognized do the papers and documents belong that are now the object of the Senate's quest?

They consist of letters and representations addressed to the Executive or intended for his inspection; they are voluntarily written and presented by private citizens who are not in the least instigated thereto by any official invitation or at all subject to official control. While some of them are entitled to Executive consideration, many of them are so irrelevant, or in the light of other facts so worthless, that they

have not been given the least weight in determining the question to which they are supposed to relate.

Are all these, simply because they are preserved, to be considered official documents and subject to the inspection of the Senate? If not, who is to determine which belong to this class. Are the motives and purposes of the Senate, as they are day by day developed, such as would be satisfied with my selection? Am I to submit to theirs at the risk of being charged with making a suspension from office upon evidence which was not even considered?

Are these papers to be regarded official because they have not only been presented but preserved in the public offices?

Their nature and character remain the same whether they are kept in the Executive Mansion or deposited in the Departments. There is no mysterious power of transmutation in departmental custody, nor is there magic in the undefined and sacred solemnity of department files. If the presence of these papers in the public offices is a stumbling-block in the way of the performance of Senatorial duty, it can be easily removed.

The papers and documents which have been described derive no official character from any constitutional, statutory, or other requirement making them necessary to the performance of the official duty of the Executive.

It will not be denied, I suppose, that the President may suspend a public officer in the entire absence of any papers or documents to aid his official judgment and discretion. And I am quite prepared to avow that the cases are not few in which suspensions from office have depended more upon oral representations made to me by citizens of known good repute, and by members of the House of Representatives and Senators of the United States, than upon any letters and documents presented for my examination. I have not felt justified in suspecting the veracity, integrity, and patriotism of Senators, or ignoring their representations because they were *not in* party affiliation with the majority of their associates; and I recall a few *suspensions* which bear the approval of individual members identified politically with the majority in the Senate.

While, therefore, I am constrained to deny the right of the Senate to the papers and documents described, so far as the right to the same is based upon the claim that they are in any view of the subject official, I am also led unequivocally to dispute the right of the Senate, by the aid of any documents whatever, or in any way save through the judicial process of trial on impeachment, to review or reverse the acts of the Executive in the suspension, during the recess of the Senate, of Federal officials.

I believe the power to remove or suspend such officials is vested in the President alone by the Constitution, which in express terms provides that "the executive power shall be vested in a President of the United States of America," and that "he shall take care that the laws be faithfully executed."

The Senate belongs to the legislative branch of the Government. When the Constitution by express provision superadded to its legislative duties the right to advise and consent to appointments to office and to sit as a court of impeachment, it conferred upon that body all the control and regulation of executive action supposed to be necessary for the safety of the people; and this express and special grant of such extraordinary powers, not in any way related to or growing out of general Senatorial duty, and in itself a departure from the general plan of our Government, should be held, under a familiar maxim of construction, to exclude every other right of interference with executive functions.

In the first Congress which assembled after the adoption of the Constitution, comprising many who aided in its preparation, a legislative construction was given to that instrument in which the independence of the Executive in the matter of removals from office was fully sustained.

I think it will be found that in the subsequent discussions of this question there was generally, if not at all times, a proposition pending to in some way curtail this power of the President by legislation, which furnishes evidence that to limit such power it was supposed to be necessary to supplement the Constitution by such legislation.

The first enactment of this description was passed under a stress of partisanship and political bitterness which culminated in the President's impeachment.

This law provided that the Federal officers to which it applied could only be suspended during the recess of the Senate when shown by evidence satisfactory to the President to be guilty of misconduct in office, or crime, or when incapable or disqualified to perform their duties, and that within twenty days after the next meeting of the Senate it should be the duty of the President "to report to the Senate such suspension, with the evidence and reasons for his action in the case.'

This statute, passed in 1867, when Congress was overwhelmingly and bitterly opposed politically to the President, may be regarded as an indication that even then it was thought necessary by a Congress determined upon the subjugation of the

Executive to legislative will to furnish itself a law for that purpose, instead of attempting to reach the object intended by an invocation of any pretended constitutional right.

The law which thus found its way to our statute book was plain in its terms, and its intent needed no avowal. If valid and now in operation it would justify the present course of the Senate and command the obedience of the Executive to its demands. It may, however, be remarked in passing that, under this law, the President had the privilege of presenting to the body which assumed to review his executive acts his reasons therefor, instead of being excluded from explanation or judged by papers found in the Departments.

Two years after the law of 1867 was passed, and within less than five weeks after the inauguration of a President in political accord with both branches of Congress, the sections of the act regulating suspensions from office during the recess of the Senate were entirely repealed, and in their place were substituted provisions which, instead of limiting the causes of suspension to misconduct, crime, disability, or disqualification, expressly permitted such suspension by the President "in his discretion," and completely abandoned the requirement obliging him to report to the Senate "the evidence and reasons" for his action.

With these modifications and with all branches of the Government in political harmony, and in the absence of partisan incentive to captious obstruction, the law as it was left by the amendment of 1869 was much less destructive of Executive discretion. And yet the great general and patriotic citizen who on the 4th day of March, 1869, assumed the duties of Chief Executive, and for whose freer administration of his high office the most hateful restraints of the law of 1867 were, on the 5th day of April, 1869, removed, mindful of his obligation to defend and protect every prerogative of his great trust, and apprehensive of the injury threatened the public service in the continued operation of these statutes even in their modified form, in his first message to Congress advised their repeal and set forth their unconstitutional character and hurtful tendency in the following language:

"It may be well to mention here the embarrassment possible to arise from leaving on the statute books the so-called 'tenure-of-office acts' and to earnestly recommend their total repeal. It could not have been the intention of the framers of the Constitution, when providing that appointments made by the President should receive the consent of the Senate, that the latter should have the power to retain in office persons placed there by Federal appointment against the will of the President. The law is inconsistent with a faithful and efficient administration of the Government. What faith can an Executive put in officials forced upon him, and those, too, whom he has suspended for reason? How will such officials be likely to serve an administration which they know does not trust them?"

I am unable to state whether or not this recommendation for a repeal of these laws has been since repeated. If it has not, the reason can probably be found in the experience which demonstrated the fact that the necessities of the political situation but rarely developed their vicious character.

And so it happens that after an existence of nearly twenty years of almost innocuous desuetude these laws are brought forth—apparently the repealed as well as the unrepealed—and put in the way of an Executive who is willing, if permitted, to attempt an improvement in the methods of administration.

The constitutionality of these laws is by no means admitted. But why should the provisions of the repealed law, which required specific cause for suspension and a report to the Senate of "evidence and reasons," be now, in effect, applied to the present Executive instead of the law, afterwards passed and unrepealed, which distinctly permits suspensions by the President "in his discretion," and carefully omits the requirements that "evidence and reasons for his action in the case" shall be reported to the Senate?

The requests and demands which by the score have for nearly three months been presented to the different Departments of the Government, whatever may be their form, have but one complexion. They assume the right of the Senate to sit in judgment upon the exercise of my exclusive discretion and executive function, for which I am solely responsible to the people from whom I have so lately received the sacred trust of office. My oath to support and defend the Constitution, my duty to the people who have chosen me to execute the powers of their great office and not to relinquish them, and my duty to the Chief Magistracy which I must preserve unimpaired in all its dignity and vigor, compel me to refuse compliance with these demands.

To the end that the service may be improved, the Senate is invited to the fullest scrutiny of the persons submitted to them for public office, in recognition of the constitutional power of that body to advise and consent to their appointment. I shall continue, as I have thus far done, to furnish, at the request of the confirming body, all the information I possess touching the fitness of the nominees placed before them for their action, both when they are proposed to fill vacancies and to take

the place of suspended officials. Upon a refusal to confirm I shall not assume the right to ask the reasons for the action of the Senate nor question its determination. I can not think that anything more is required to secure worthy incumbents in public office than a careful and independent discharge of our respective duties within their well-defined limits.

Though the propriety of suspensions might be better assured if the action of the President was subject to review by the Senate, yet if the Constitution and the laws have placed this responsibility upon the executive branch of the Government, it should not be divided nor the discretion which it involves relinquished.

It has been claimed that the present Executive having pledged himself not to remove officials except for cause, the fact of their suspension implies such misconduct on the part of a suspended official as injures his character and reputation, and therefore the Senate should review the case for his vindication.

I have said that certain officials should not, in my opinion, be removed during the continuance of the term for which they were appointed solely for the purpose of putting in their place those in political affiliation with the appointing power; and this declaration was immediately followed by a description of official partisanship which ought not to entitle those in whom it was exhibited to consideration. It is not apparent how an adherence to the course thus announced carries with it the consequences described. If in any degree the suggestion is worthy of consideration, it is to be hoped that there may be a defense against unjust suspension in the justice of the Executive.

Every pledge which I have made by which I have placed a limitation upon my exercise of executive power has been faithfully redeemed. Of course the pretense is not put forth that no mistakes have been committed; but not a suspension has been made except it appeared to my satisfaction that the public welfare would be improved thereby. Many applications for suspension have been denied, and the adherence to the rule laid down to govern my action as to such suspensions has caused much irritation and impatience on the part of those who have insisted upon more changes in the offices.

The pledges I have made were made to the people, and to them I am responsible for the manner in which they have been redeemed. I am not responsible to the Senate, and I am unwilling to submit my actions and official conduct to them for judgment.

There are no grounds for an allegation that the fear of being found false to my professions influences me in declining to submit to the demands of the Senate. I have not constantly refused to suspend officials, and thus incurred the displeasure of political friends, and yet willfully broken faith with the people for the sake of being false to them.

Neither the discontent of party friends nor the allurements constantly offered of confirmations of appointees conditioned upon the avowal that suspensions have been made on party grounds alone, nor the threat proposed in the resolutions now before the Senate that no confirmations will be made unless the demands of that body be complied with, are sufficient to discourage or deter me from following in the way which I am convinced leads to better government for the people.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, D. C., March 1, 1886.

1st sess. 49th Cong., J. of S., 325.] FEBRUARY 23, 1886.

Mr. Morgan submitted the following resolution for consideration; which was ordered to lie on the table and be printed:

Whereas a majority of the Committee on the Judiciary have originated and reported to the Senate and recommend the adoption of the following resolution:

"*Resolved*, That the Senate hereby expresses its condemnation of the refusal of the Attorney-General, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 25th of January, and set forth in the report of the Committee on the Judiciary, as in violation of his official duty and subversive of the fundamental principles of the Government and of a good administration thereof;"

And whereas the Senate, if said resolution is adopted as being true upon the facts and as matter of law, will thereby announce the prejudgment of a majority of this body, without any trial according to law, that the Attorney-General of the United States is guilty of and condemned of having wilfully committed an offense in the conduct of his office, which is in violation of his official duty, and is subversive of the fundamental principles of the Government of the United States; and

Whereas the Attorney-General, if he has in fact wilfully committed any offense that is in violation of his official duty and is subversive of the fundamental principles of the Government of the United States, is only amenable to the condemnation of the Senate when the Senate is sitting, with the Chief Justice of the United States, as a court of impeachment to hear and decide upon articles of impeachment presented by the House of Representatives; and

Whereas it is alleged that the Senate has no rightful authority to cause the Attorney-General of the United States to be arrested, tried, and punished for a contempt of its authority and dignity, if the Senate shall declare that such contempt has been committed by him, upon the facts stated, and the averments made in said resolution and in the report which accompanies the same; and

Whereas the Senate would be exposed to just censure if they, in the manner recommended by the Committee on the Judiciary, proceed to announce their judgment of condemnation against the Attorney-General of the United States upon an accusation that includes an offense which is punishable by impeachment; and

Whereas the Senate would also be exposed to just censure if it should attempt to declare the Attorney-General to be in contempt of its authority, and to pass judgment of condemnation against him for such contempt without having him notified of the charge and arraigned to answer the same at the bar of the Senate:

Resolved, That the Committee on Privileges and Elections be instructed to inquire into and report upon the question whether the offense alleged against the Attorney-General of the United States in said resolution is of the class of offenses for which the head of a department may be impeached and removed from office, and whether the Senate can take jurisdiction of such alleged offense, by a resolution of the Senate, there being no impeachment of said officer in the mode required by the Constitution.

2. That said committee be instructed to further inquire and report whether the Senate has the power under the law, and the rules adopted for its government, to arrest, try, convict, and punish the Attorney-General of the United States for a contempt of its rightful authority.

3. That said committee be further instructed to inquire and report whether the matter stated and referred to in the manner set forth in the resolution reported from the Committee on the Judiciary above copied, constitute any crime or any misdemeanor in office under any law of the United States, and, if so, what penalty is annexed to said crime or misdemeanor, and what tribunal has the rightful jurisdiction to try and on conviction to condemn the Attorney-General of the United States to punishment for the same.

4. That said committee be further instructed to consider, ascertain, and report whether in the conduct of the Attorney-General, as stated in the resolution reported from the Committee on the Judiciary and in the accompanying report, he violated any, and what, law of the United States, and in what respect he has violated said law; and whether he has done any and what act in his conduct of the business of his office to which said resolution relates that he might not have done in the exercise of his lawful discretion.

5. That said committee be further instructed to inquire and report whether the Senate has any constitutional rights or power to give its advice and consent to removals from office by the President, and whether, by withholding such advice and consent, the Senate can prevent the removal of any person from office by the President.

6. That said committee inquire and report whether the Senate, if a majority shall agree to the resolution above recited (which was reported from the Committee on the Judiciary), has the right under the Constitution to withhold its consent to the removal of persons by the President who are unfit for office, under the circumstances mentioned in said report of the Committee on the Judiciary, and in the resolutions reported by said committee, and whether the Senate can bind its members by any declaration of the duty of the Senate, or by any rule, as a duty to the Senate, as the same is declared in the following resolution, touching the powers and proper conduct of the Senate, which was also reported by the Committee on the Judiciary, namely:

"*Resolved*, That it is, under these circumstances, the duty of the Senate to refuse its advice and consent to proposed removals of officers, the documents and papers in reference to the supposed official or personal misconduct of whom are withheld by the Executive or any head of a department when deemed necessary by the Senate and called for in considering the matter."

1st sess. 49th Cong., J. of S., 345.] MARCH 1, 1886.

Mr. Pugh, in pursuance of leave heretofore granted, submitted the views of a minority of the Committee on the Judiciary upon the letter of the Attorney-General refusing to transmit certain papers concerning the administration of the office of the district attorney of the southern district of Alabama, called for by a resolution of the Senate of January 25, 1886; which was ordered to be printed as Part 2 of the Report No. 135.

1st sess. 49th Cong., J. of S., 345.] MARCH 1, 1886.

Mr. Hoar, from the Committee on Privileges and Elections, to whom was referred the resolution submitted by Mr. Riddleberger on the 2nd of February, 1886, in relation to the removal or suspension of Federal officers by the President, reported it without amendment and without recommendation.

1st sess. 49th Cong., J. of S., 356.] MARCH 1, 1886.

The message was read.

On motion by Mr. Harris that it lie on the table and be printed,

It was determined in the negative, { Yeas..... 27 / Nays..... 32

On motion by Mr. Edmunds,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was not agreed to.

On motion by Mr. Edmunds,

Ordered, That the message be referred to the Committee on the Judiciary and be printed.

1st sess. 49th Cong., J. of S., 389.] MARCH 5, 1886.

On motion by Mr. Edmunds,

The Senate proceeded to consider the resolutions reported by the Committee on the Judiciary expressing the sense of the Senate on the refusal of the Attorney-General to send to the Senate copies of papers called for by its resolution of January 25, 1886;

When,

On motion by Mr. Coke, at 6 o'clock and 20 minues p. m.,

The Senate adjourned.

[The report of the committee was under discussion from March 8 to March 26. The record of the proceedings on these days may be found March 8, J. of S., 396; March 9, J. of S., 400; Cong. Rec. 1st sess. 49th Cong. 2211–2221. March 10, J. of S., 407; Record, ib. 2246–2252. March 11, J. of S., 416; Record, ib. 2291–2297. March 12, J. of S., 420; Record, ib. 2329–2337. March 15, J. of S., 427; Record, ib. 2378. March 16, J. of S., 434; Record, ib. 2388–2403. March 17, J. of S., 441; Record, ib. 2430–2451. March 18, J. of S., 447; Record, ib. 2482–2493. March 19, J. of S., 454; Record, ib. 2528–2534. March 22, J. of S., 461; Record, ib. 2615–2625. March 23, J. of S., 468; Record, ib. 2653–2666. March 24, J. of S., 472; Record, ib. 2693–2710. March 26, J. of S., 479; Record, ib. 2784–2814.]

1st sess. 49th Cong., J. of S., 426.] MARCH 15, 1886.

On motion by Mr. Edmunds,

Ordered, That the report of the Committee on the Judiciary (No. 135) on the letter of the Attorney-General of the United States declining to transmit to the Senate copies of official records and papers concerning the administration of the office of the district attorney of the southern district of Alabama, together with the views of the minority, be reprinted.

Mr. Sherman submitted the following resolution:

Resolved, That there be printed for the use of the Senate 5,000 extra copies of the report of the Committee on the Judiciary, together with the views of the minority, upon the letter of the Attorney-General declining to transmit official records and papers concerning the administration of the office of district attorney, southern district of Alabama.

The Senate proceeded, by unanimous consent, to consider the resolution; and an amendment having been proposed by Mr. Hoar,

Ordered, That the resolution, with the amendment, be referred to the Committee on Printing.

1st sess. 49th Cong., J. of S., 468.] MARCH 24, 1886.

The President *pro tempore* announced that the hour of 2 o'clock had arrived, and laid before the Senate the unfinished business at its adjournment yesterday, viz, the resolutions expressing the sense of the Senate on the refusal of the Attorney-General to send to the Senate copies of papers called for by its resolution of January 25, 1886; and

The Senate resumed the consideration of the resolutions; and

The question being on the amendment proposed by Mr. Van Wyck,

Pending debate,

On motion by Mr. Butler that the Senate proceed to the consideration of executive business,

It was determined in the negative, { Yeas..... 18 / Nays..... 20

On motion by Mr. Edmunds,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was not agreed to.
On motion by Mr. Butler,
At 5 o'clock and 34 minutes p. m.,
The Senate adjourned.

1st sess. 49th Cong., J. of S., 479.] MARCH 26, 1886.

On motion of Mr. Edmunds,

The Senate resumed the consideration of the resolutions expressing the sense of the Senate on the refusal of the Attorney-General to send to the Senate copies of papers called for by its resolution of January 25, 1886; and

The question being on the amendment proposed by Mr. VanWyck, and

Mr. Van Wyck having modified the same so as to amend by inserting at the end of the third resolution the words *and in all such cases of removal the matter shall be considered in open session of the Senate,*

After debate,

Mr. Hoar raised a question of order, viz, that as the amendment would operate as a change in the standing rules of the Senate, it was not in order except on one day's notice as required by the fortieth rule.

The President *pro tempore* sustained the point of order, and decided that as the thirty-sixth provides that when acting upon confidential or executive business the Senate chamber shall be cleared of all persons except certain officers specified, and as the communications referred to in the resolutions are executive communications, known to be such, the proposed amendment which would change the rule to a certain extent was not in order under the fortieth rule, which requires one day's notice in writing, specifying precisely the rule or a part of rule proposed to be modified or amended.

From the decision of the chair Mr. Butler appealed to the Senate; and

The question being, Shall the decision of the Chair stand as the judgment of the Senate?

On motion by Mr. Hoar that the appeal lie on the table,

It was determined in the affirmative, { Yeas ..... 31 / Nays 28

On motion by Mr. Hoar,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the appeal was laid on the table.

The question recurring on agreeing to the resolutions,

Mr. Harris demanded a division of the question, and that a vote be taken on each resolution separately; and

On the question, Will the Senate agree to the first resolution in the following words?

Resolved, That the foregoing report of the Committee on the Judiciary be agreed to and adopted,

It was determined in the affirmative, { Yeas ..... 32 / Nays 26

On motion by Mr. Harris,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the first resolution was agreed to.

On the question to agree to the second resolution as follows, viz:

Resolved, That the Senate hereby express its condemnation of the refusal of the Attorney-General, under whatever influence, to send to the Senate copies of papers called for by its resolution of the 25th of January, and set forth in the report of the Committee on the Judiciary, as in violation of his official duty and subversive of the fundamental principles of the Government and of a good administration thereof,

It was determined in the affirmative, { Yeas ..... 32 / Nays 25

On motion by Mr. Harris,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the second resolution was agreed to.

On the question to agree to the third resolution, as follows, viz:

Resolved, That it is, under these circumstances, the duty of the Senate to refuse its advice and consent to proposed removals of officers, the documents and papers in reference to the supposed official or personal misconduct of whom are withheld by the executive, or any head of a Department, when deemed necessary by the Senate and called for in considering the matter.

Mr. Gray raised a question of order, viz, that this resolution, inasmuch as it undertakes to deal with nominations made to the Senate by the Executive *en masse*, by declaring that it is the duty of the Senate to refuse to advise and consent to a certain

lass of nominations, is within the objection made in reference to the amendment offered by Mr. Van Wyck, and is therefore not in order.

The President *pro tempore* overrules the question of order, and decided that the resolution was a simple declaration of opinion, and did not change or modify any of the standing rules of the Senate.

From the decision of the Chair Mr. Gray appealed to the Senate, and

On the question,

Shall the decision of the Chair stand as the judgment of the Senate?

After debate,

On motion by Mr. Hoar to lay the appeal on the table,

It was determined in the affirmative, { Yeas ..... 30 / Nays 27

On motion by Mr. Butler,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was agreed to.

On motion by Mr. Brown to amend the report of the committee by striking out the said third resolution,

It was determined in the negative, { Yeas ..... 27 / Nays 31

On motion by Mr. Brown,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was not agreed to.

The question recurring on agreeing to the said third resolution,

It was determined in the affirmative, { Yeas ..... 30 / Nays 29

On motion by Mr. Cockrell,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the third resolution was agreed to.

On the question to agree to the fourth resolution, as follows, viz:

Resolved, That the provision of section 1754 of the Revised Statutes, declaring "that persons honorably discharged from the military or naval service, by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointment to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such office," ought to be faithfully and fully put in execution, and that to remove, or to propose to remove, any such soldier, whose faithfulness, competency, and character are above reproach, and to give place to another who has not rendered such service, is a violation of the spirit of the law, and of the practical gratitude the people and Government of the United States owe to the defenders of constitutional liberty and the integrity of the Government.

It was determined in the affirmative, { Yeas ..... 56 / Nays 1

On motion by Mr. Edmunds,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

Mr. Morgan voted in the negative,

So the fourth resolution was agreed to.

Mr. Morgan, by unanimous consent, submitted the following additional resolution:

Resolved, That nothing in these resolutions contained is to be construed as declaring that the conduct of the Attorney-General renders him liable to impeachment for the offense charged against him in the second resolution, which the Senate has just adopted.

On motion by Mr. Edmunds to lay the resolution on the table,

It was determined in the affirmative, { Yeas ..... 33 / Nays 26

On motion by Mr. Morgan,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the motion was agreed to.

2d sess. 50th Cong., J. of S., 568.] MAY 13, 1889.

Mr. Aldrich, from the Committee on Rules, gave notice of the intention of the committee to move an amendment to Rule XIV, clause 5, by the addition thereto of the following words:

And any resolution calling upon the President or any head of a Department for information shall be first referred to the appropriate committee.

CALLS FOR INFORMATION.

3d sess. 25th Cong., J. of S., 276.] FEBRUARY 27, 1839.

Whereas the Senate, on the 12th day of February, instant, passed a resolution as follows:

Resolved, That the Postmaster-General communicate to the Senate the number of removals of deputy postmasters since the 4th day of March, 1837, the names of the persons so removed, the names of the offices where such removals have been made, classifying the whole by States and Territories;

And whereas no answer has been received to the same: Therefore

Resolved, That the Postmaster-General inform the Senate, without delay, why he has not communicated the information required by said resolution.

3d sess. 25th Cong., J. of S., 309.] MARCH 1, 1839.

Resolved, That the letter of the Postmaster-General to the President of the Senate, stating that the only reason why he had not sent an answer to the previous resolution was because it was not ready, is considered by the Senate as disrespectful to this body.

Resolved, That said letter with the resolution to which it purports to be an answer be laid before the President of the United States for such action as he may deem proper.

3d sess., 25th Cong., J. of S., 316.] MARCH 1, 1839.

To the Senate of the United States:

I have received the resolution of the Senate of this day upon the subject of a communication made to you by the Postmaster-General on the 27th ultimo, and have the satisfaction of laying before the Senate the accompanying letter from that officer, in which he fully disclaims any intended disrespect to the Senate in the communication referred to.

M. VAN BUREN.

WASHINGTON, *March 1, 1839.*

3d sess. 25th Cong., J. of S., 324.] MARCH 2, 1839.

Mr. Allen submitted the following motion:

Resolved, That the President's message of the 1st instant, and the accompanying letter of the Postmaster-General, in answer to certain resolutions of the Senate, adopted on the 1st instant, in relation to a communication previously made to the Senate by the Postmaster-General, are satisfactory to the Senate.

[Later in the evening the motion was agreed to (ib. 333).]

1st sess. 27th Cong., J. of S., 153.] AUGUST 11, 1841.

Mr. Clay, of Alabama, submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury be directed to inform the Senate, without delay, why no report has been made in answer to the following resolution, passed by the Senate at the last session, to wit:

Resolved, That the Secretary of the Treasury be directed to report to the Senate at the next session of Congress the amount of scrip heretofore issued on the Virginia military land warrants, giving the amount for each year, the names of the persons to whom issued, also the names of the persons to whom such scrip was assigned, with the year of such assignment.

[August 14. This was amended by striking out the words "without delay" and agreed to (ib., 163). The Secretary replied, showing the causes of the delay August 20, and the communication was laid on the table and printed (ib., 194).]

3d sess. 45th Cong., J. of S., 59.] DECEMBER 16, 1878.

Mr. Beck submitted the following resolution for consideration:

Resolved, That the Secretary of the Treasury be required to appear before the Senate, in person, on Wednesday next at 1 o'clock p. m., to inform the Senate what reason, if any, he has for failing to answer the resolution of the Senate passed on the 3d day of December, 1878, which is in the following words:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to inform the Senate what amount of silver coin has been received in payment of customs dues since the beginning of the current official year, and whether or not he has applied the silver coin so received, in whole or part, to the payment of the interest on the bonds or notes of the United States; if it has not been so applied, to state the

reason why; if it has been applied to that purpose in part only, to state what portion has been so used, and on what character of obligation.

He is directed to inform the Senate the amount of interest he has paid on the bonds and notes of the United States since the current official year began, and the amount of such interest which has been paid in gold and silver coin, respectively.

3d sess. 45th Cong., J. of S., 63.] DECEMBER 17, 1878.

The Vice-President laid before the Senate a letter of the Secretary of the Treasury, communicating, in answer to resolutions of the Senate of December 3, 1878, a report of the Treasurer of the United States in relation to the amount of silver coin received in payment of the customs dues since the beginning of the current official year, and the amount used for the payment of interest on the bonds or notes of the United States.

COMMUNICATON WITH THE EXECUTIVE.

Communications from the President to the Senate were at first delivered by Cabinet officers, but the President's secretary early became the messenger and has so continued. Communications from the Senate to the President are made through a committee of Senators or by its Secretary.

In 1839 a resolution of the Senate calling upon the Postmaster-General for information was answered in a manner which the Senate considered disrespectful. The matter was laid before the President, who replied by sending to the Senate a letter from the Postmaster-General disclaiming any want of respect.

1st sess. 1st Cong., J. of S., 40.] MAY 26, 1789.

A message was delivered from the House of Representatives, by Mr. Beckley, their clerk, who delivered the following resolve, and withdrew.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Monday, the 25th of May, 1789.

Resolved, That a committee be appointed to confer with any committee which may be appointed by the Senate, on the proper method of receiving into either House, bills or messages from the President of the United States.

The members appointed Mr. Partridge, Mr. Floyd, and Mr. Thatcher.

Extract from the Journal.

JOHN BECKLEY, *Clerk.*

The message was considered, and the appointment of a committee on the part of the Senate was concurred.

MR. Lee and Mr. Izard were joined.

1 J. of S., 29.] MAY 27, 1789.

The Secretary went to the House of Representatives with a message purporting the concurrence on the part of the Senate, in the appointment of a committee upon the mode of receiving messages from the President of the United States, agreeably to the proposition of the House of Representative made yesterday.

1 J. of S., 29.] MAY 29, 1789.

A message from the House of Representatives by Mr. Beckley, their clerk, who brought to the Senate—

* * * * * * *

Also a resolve of this day on the report of a joint committee appointed to confer upon the mode of receiving in the Senate and House of Representatives, bills, etc., from the President of the United States, desiring the concurrence of the Senate thereto.

And he withdrew.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
The 29th of May, 1789.

Mr. Partridge, from the committee appointed to confer with a committee of the Senate, on the proper method of receiving into either House bills or messages from the President of the United States, made a report and the said report being amended to read as followeth:

That until the public offices be established, and the respective officers are appointed, any returns of bills and resolutions or other communications from the President may be received by either House under cover directed to the President of the Senate

or the Speaker of the House of Representatives (as the case may be) and transmitted by such person as the President may think proper.

Resolved, That this House doth agree to the said report.

Extract from the Journal.

JOHN BECKLEY, *Clerk.*

In Senate, read and concurred.

1 J. of S., 81.] SEPTEMBER 16, 1789.

A message from the President of the United States by the Secretary at War, which he delivered to the Vice-President and withdrew:

Gentlemen of the Senate:

The governor of the Western Territory has made a statement to me of the reciprocal hostilities of the Wabash Indians, and the people inhabiting the frontiers bordering on the river Ohio, which I herewith lay before Congress.

The United States in Congress assembled, by their acts of the 21st day of July, 1787, and of the 12th of August, 1788, made a provisional arrangement for calling forth the militia of Virginia and Pennsylvania in the proportions therein specified.

As the circumstances which occasioned the said arrangement continue nearly the same, I think proper to suggest to your consideration the expediency of making some temporary provision for calling forth the militia of the United States for the purposes stated in the Constitution, which would embrace the cases apprehended by the governor of the Western Territory.

GEO. WASHINGTON.

SEPTEMBER 16, 1789.

1 J. of S., 220.] DECEMBER 9, 1790.

A letter from the Secretary of War was communicated to the Vice-President, inclosing sundry papers referred to in the President's speech to both Houses of Congress on the 8th instant, which, being read, were ordered to lie for consideration.

1 J. of S., 219.] DECEMBER 9, 1790.

A message from the President of the United States, by Mr. Lear, his secretary, who communicated sundry papers referred to in the President's speech to both Houses of Congress on the 8th instant. And he withdrew.

ENROLLED BILLS.

1st sess. 1st Cong, J. of S., 38.] MAY 18, 1789.

Ordered, That Mr. Lee be a committee on the part of the Senate to join any committee appointed for that purpose on the part of the House of Representatives and lay before the President of the United States, for his approbation, a bill entitled "An act to regulate the time and manner of administering certain oaths," after it shall be enrolled, examined by the said committee, and signed by the Speaker of the House of Representatives and by the Vice-President.

Ib. 40.] MAY 22, 1789.

A message from the House of Representatives by Mr. Beckley, their clerk, who brought to the Senate an enrolled bill, entitled "An act to regulate the time and manner of administering certain oaths," signed by the Speaker of the House of Representatives, and informed the Senate "that the House had agreed on the appointment of a committee on their part, consisting of Mr. Partridge and Mr. Floyd, to lay the bill before the President, after it shall have passed the formalities prescribed in the resolve of the 18th of May;"

And he withdrew.

The committee appointed to examine the aforementioned bill reported, that they had performed the service, whereupon the bill was signed by the Vice-President, and was by the committee thereunto appointed, laid before the President of the United States for his approbation.

1st sess. 1st Cong., J. of S., 43.] JUNE 1, 1789.

A message from the House of Representatives, by Mr. Beckley, their clerk:

Mr. PRESIDENT: I am directed to inform the Senate that the President has affixed his signature to a bill entitled "An act to regulate the time and manner of adminis-

tering certain oaths," and has returned it to the House of Representatives, from whence it originated.

And he withdrew.

[July 31, 1789, standing committees were appointed to "examine the enrollment of all bills as the same shall pass the two Houses and after being signed by the President of the Senate and Speaker of the House of Representatives, to present them forthwith to the President of the United States." (1st sess. 1st Cong., J. of S., 80.)]

RETURN OF BILL WITHOUT APPROVAL.

[No question has as yet arisen over the return of a bill by the President within the ten days allowed by the Constitution. This question has arisen, however, in several of the States.]

In 1864 the justices of the supreme court of New Hampshire were asked by the legislature whether the bill known as the "soldiers' voting bill" had become law. (See 45 N. H. 607.)

The material facts are stated by the court to be:

"That said bill originated in the house of representatives, passed both branches of the legislature, was duly engrossed, signed by the presiding officers of both branches, and about noon on Wednesday, August 17, 1864, was carried by the assistant clerk of the senate to the executive chamber in the State house, in accordance with the customary mode of presenting bills to the governor, and was laid upon the table of the governor, who was then absent from the room, but who had been there during the morning, and was expected to return that afternoon, but did not; that when said bill was thus laid upon the governor's table, some members of the executive council were present, and also Mr. Barrett, the State auditor, who was the son-in-law of the governor, and who had a table there in the executive chamber for the transaction of his business, near that of the governor; that the assistant clerk of the senate, when he entered the executive chamber with said bill, announced that he had a bill for the governor; that the governor saw said bill on Thursday, August 18, when he came into the executive chamber and found it upon his table there; that both houses adjourned from Saturday the 20th to Tuesday the 23d of August, and were not in session on Monday, August 22; that on Wednesday, August 24, in the afternoon, the governor sent a message to the house of representatives by Mr. Sinclair, a member of said house, who gave notice to the speaker in the house when in session, that he had a message from the governor to present; that the speaker declined to receive it from him; that said message was not received by any action of the speaker or of the house, and was not read in their hearing, but that near the close of the session that afternoon, while the yeas and nays were being taken on a motion to adjourn, which was decided in the affirmative, the secretary of state laid said message on the speaker's table, stating it to be a message from his excellency, the governor; and this message was not opened or read, but was afterwards, on a subsequent day, referred to a select committee; and that in this message of the governor he stated his objections to the bill in question and returned said bill therewith to the house."

The court were of opinion that a bill was presented to the governor when left for him in the chamber where such communications were usually left though he were temporarily absent, and that it would be a sufficient return of a bill if it were handed to the presiding officer of the proper house, even though the house had adjourned for the day and that return might be made by any proper person and if properly announced that would be sufficient and the refusal of the house or of the speaker would not prevent its effect. They were also of opinion that adjournment from day to day did not affect the time for the return, that the only adjournment that could prevent the return of a bill was the final adjournment at the close of the session. The court also discuss the question of computing the five days.

A similar case arose in California and is reported as Harpending *v.* Haight (39 Cal., 189, 1870), on an application to the supreme court of the State to issue a mandamus to the respondent, the governor, to authenticate a certain bill as a statute to the secretary of state. The house in which the bill originated had adjourned at 4 p. m on the last day on which the bill could be returned. At 4.30 p. m. the private secretary of the governor entered the chamber of this house with the bill and a veto message, but finding the house adjourned returned with the bill to the governor, who ever afterwards retained the bill. The court say that the temporary adjournment did not prevent the return of the bill, but that the messenger "might have delivered the bill and message into the hands of the lieutenant-governor, president of the senate, the secretary or other officer of the senate, or to one of the senators, or to any proper person connected with or engaged in the service of the senate to be called to its attention as soon as an opportunity might thereafter offer, and that

such delivery would have been sufficient in law as though it had been delivered to the presiding officer or secretary of the senate in open session."

In this case, however, the court held that there had been no return, as the bill had never left the control of the executive.

The court follow the opinion of the justices of the supreme court of New Hampshire that no adjournment but the final adjournment could prevent the return of a bill within the time specified by the constitution.

On this part of the case the court were unanimous.

(See also People *v.* Hatch, 19 Ill., 283, as to the time when the approval of a bill is complete.)

[For a case in which a bill signed after the adjournment of the legislature, but within the ten days prescribed by the State constitution was held by the Supreme Court of the United States to be a valid law, see Seven Hickory *v.* Ellery (103 U. S., 423).]

COMMUNICATION WITH THE HOUSE OF REPRESENTATIVES.

There was some doubt at the organization the two Houses of Congress as to the method by which bills and communications should be transmitted from one to the other. The subject was referred to a committee and it was agreed that until their report was agreed to communications should be conveyed by the Secretary of the Senate and Clerk of the House. The report of the committee was not adopted, and the practice begun as a temporary arrangement has continued. In 1813 the Embargo Act was sent to the Senate by the House by two of its members, with a request that the Senate consider it confidentially, and the action of the Senate on the bill was reported to the House in like manner. A similar case occurred in 1815.

Bills which have passed one House are uniformily returned to that House on its request.

1 J. of S., 7.] APRIL 6, 1789.

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a president is elected for the sole purpose of opening and sorting and counting the votes of the electors of the several States in the choice of President and Vice-President of the United States, and that the Senate is now ready in the Senate Chamber to proceed in the presence of the House to discharge that duty,

Who reported that he had delivered the message.

Mr. Boudinot, from the House of Representatives, communicated the following verbal message to the Senate:

Mr. PRESIDENT: I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate to attend the opening and counting of the votes of the electors of the President and Vice-President of the United States.

The Speaker and House of Representatives attended in the Senate Chamber for the purpose expressed in the message delivered by Mr. Ellsworth, and after some time withdrew.

1st sess. 1st Cong., J. of S., 12.] APRIL 16, 1789.

Ordered, That Mr. Strong, Mr. Izard, and Mr. Lee be a committee to report a mode of communication to be observed between the Senate and House of Representatives with respect to papers, bills, and messages, and to confer thereon with such committee as may be appointed by the House of Representatives for that purpose.

Ib., 15.] APRIL 23, 1789.

The Senate assembled.

Present as yesterday.

The committee appointed on the 16th of April, to report a mode of communication to be observed between the Senate and House of Representatives, with respect to papers, bills, and messages, and to confer thereon with such committee as may be appointed by the House of Representatives for that purpose, have conferred with a committee of the House and have agreed to the following REPORT:

When a bill or other message shall be sent from the Senate to the House of Representatives it shall be carried by the Secretary, who shall make one obeisance to the Chair on entering the door of the House of Representatives, and another on delivering it at the table into the hands of the Speaker. After he shall have delivered it he shall make an obeisance to the Speaker, and repeat it as he retires from the House.

When a bill shall be sent up by the House of Representatives to the Senate, it shall be carried by two members, who, at the bar of the Senate, shall make their obeisance to the President, and thence advancing to the chair, make a second obeisance and deliver it into the hands of the President. After having delivered the bill, they shall make their obeisance to the President, and repeat it as they retire from

the bar. The Senate shall rise on the entrance of the members within the bar, and continue standing until they retire.

All the messages from the House of Representatives shall be carried by one member, who shall make his obeisance as above mentioned, but the President of the Senate alone shall rise.

Read and accepted.

Ib. 16] APRIL 24, 1789.

The Senate assembled.

Present as yesterday.

On motion, the question was taken, whether the report of the committee upon the mode of communication between the two houses of legislation, as yesterday read and accepted in the Senate, shall at this time be sent to the House of Representatives?

Passed in the negative.

Ib. 16.] APRIL 25, 1789.

The Senate assembled.

Present as yesterday.

An order of the House of Representatives, for the recommitment of a report upon the mode of communication between the two Houses, to the committee originally appointed on the part of the House, and directed by the Speaker to the President, was read, and upon motion, the acceptance of the report of the Committee of both Houses by the Senate on the 23d instant was reconsidered, and the recommitment was agreed to on the part of the Senate.

Ib. 17.] APRIL, 25, 1789.

The committee further report it as their opinion that it will be proper that a committee of both Houses be appointed to take order for conducting the business.

Read and accepted, whereupon Mr. Lee, Mr. Izard, and Mr. Dalton, on the part of the Senate, together with a committee that may be appointed on the part of the House of Representatives, were empowered to take order for conducting business.

Ib. 17.] APRIL 28, 1789.

A letter was received from the Speaker of the House of Representatives by the President of the Senate, containing the two following enclosures:

* * * * * * *

The committee appointed to report a mode of communication to be observed between the Senate and House of Representatives, with respect to papers, bills, etc., and to whom the subject was recommitted, having again conferred with the committee of the House of Representatives, agreed upon a report, which was read and ordered to lie for consideration.

1 J. of S., 18.] APRIL 29, 1789.

A letter from the Speaker to the Vice-President was read, communicating the concurrence of the House on the report of the joint committee on the mode of communicating papers, bills, and messages between the Senate and House of Representatives.

Ib. 18.] APRIL 30, 1789.

The Senate assembled.

Present as yesterday.

The report of the committee on the mode of communication between the Senate and House of Representatives, was taken up, and after debate, postponed.

Ib. 20.] MAY 1, 1789.

The Senate assembled.

Present as yesterday.

The report of the joint committee to whom was recommitted the mode of communication between the Senate and House of Representatives, as made by the committee, on the part of the Senate, was taken up and not accepted.

The same report of the committee on the part of the House, and the acceptance thereof of the House was considered in the Senate, and it was determined that it should lie until further order.

A motion that when a messenger shall come from the House of Representatives to the Senate and shall be announced by the Doorkeeper, the messenger shall be received at the bar of this House by the Secretary and the bill or paper that he may bring shall there be received from him by the Secretary, who shall deliver it to the President of the Senate, was committed to Mr. Ellsworth, Mr. Lee, and Mr. Read.

And the committee were instructed to report a mode of sending bills, messages, and papers from the Senate to the House of Representatives.

1 J. of S., 20.] MAY 2, 1789.

Agreed, That until a permanent mode of communication shall be adopted between the Senate and House of Representatives, the Senate will receive messages by the Clerk of the House, if the House shall think proper to send him, and papers sent from the House shall be delivered to the Secretary at the bar of the Senate, and by him be conveyed to the President.

A message from the House of Representatives, by Mr. Beckley, their Clerk.

Ib., 21.] May 4, 1789.

The report of the committee to whom was referred the motion made the 1st instant upon the mode of sending messages to, and receiving them from the House of Repre, sentatives, was read, and ordered to lie for consideration.

Ib., 22.] MAY 5, 1789.

Ordered, That the Secretary carry the aforementioned bill to the House of Representatives, together with the amendments, and address the Speaker in the words following:

SIR: The Senate have passed the bill entitled "An act to regulate the time and manner of administering certain oaths," with amendments, to which they desire the concurrence of your House.

Ib., 22.] MAY 7, 1789.

Ordered, That when a messenger shall come from the House of Representatives to the Senate and shall be announced by the Doorkeeper, the messenger or messengers being a member or members of the House, shall be received within the bar, the President rising when the message is by one member, and the Senate, also, when it is by two or more. If the messenger be not a member of the House he shall be received at the bar by the Secretary, and the bill or papers that he may bring shall there be received from him by the Secretary, and be by him delivered to the President.

1 J. of S., 30.] JUNE 1, 1789.

The Secretary carried to the House of Representatives the concurrence upon a resolve of the House of the 29th of May on the mode of receiving communications from the President of the United States.

A message from the House of Representatives by Mr. Beckley, their Clerk.

1 J. of S., 31.] JUNE 4, 1789.

The Secretary carried the aforesaid resolve to the House of Representatives for their concurrence.

5 J. of S., 367.] JULY 23, 1813.

A message from the House of Representatives by Messrs. Grundy and Robinson, two members of that body, Mr. Grundy, chairman:

Mr. President:

The House of Representatives have passed a bill entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," in which they request the concurrence of the Senate; and that the bill may be considered by the Senate confidentially.

And they withdrew.

5 J. of S., 369.] JULY 28, 1813.

Ordered, That Messrs. Campbell and Varnum be a committee, confidentially, to inform the House of Representatives that the Senate do not concur in this bill.

5 J. of S., 370.] JULY 29, 1813.

Mr. Campbell, from the committee appointed yesterday to carry a confidential message to the House of Representatives, reported that they had performed that service.

5 J. of S., 687.] MARCH 1, 1815.

A confidential message from the House of Representatives, by Mr. Gaston and Mr. Forsythe, two members of that body, Mr. Gaston, chairman.

Mr. PRESIDENT: The House of Representatives have confidentially passed a bill entitled "An act for the protection of the commerce of the United States against the Algerine cruisers," in which they request the concurrence of the Senate.
And they withdrew.

Ib., 687.] MARCH 2, 1815.

Resolved, That a committee be appointed to notify the House of Representatives confidentially that the Senate have passed the said bill.
Ordered, That Messrs. Fromentin and Gouldsborough be the committee.
Mr. Fromentin, from the committee, reported that they had performed their duty.

CONFERENCE.

1 J. of S., 10.] APRIL 7, 1789.

Ordered, That Mr. Lee, Mr. Strong, Mr. Marclay, and Mr. Bassett be a committee to prepare a system of rules to govern the two Houses in cases of conference. * * *

Ib., 12.] APRIL 15, 1789.

The committee appointed the 7th of April to prepare a system of rules to govern the two Houses in cases of conference, to take into consideration the manner of electing chaplains, and to confer thereon with a committee of the House of Representatives, reported: That they had conferred on the business with a committee of the House of Representatives for that purpose appointed. Whereupon,
Resolved, That in every case of an amendment to a bill agreed to in one House and dissented to in the other, if either House shall request a conference, and appoint a committee for that purpose, and the other House shall also appoint a committee to confer, such committees shall, at a convenient time, to be agreed on by their chairmen, meet in the conference chamber, and state to each other, verbally or in writing, as either shall choose, the reasons of their respective Houses, for and against the amendment, and confer freely thereon.

RETURN OF A BILL.

1st sess. 32d Cong., J. of S., 592.] AUGUST 14, 1852.

A message from the House of Representatives, by Mr. Forney, their Clerk:

* * * * * * *

I am desired by the House of Representatives to request of the Senate a certified copy of the bill of the Senate (No. 363) appropriating land scrip in full and final satisfaction of Virginia military bounty land warrants; the engrossed bill having been mislaid since it was received from the Senate.

Ib., 594.]

Ordered, That the Secretary communicate to the House of Representatives a certified copy of the bill passed by the Senate (S. 363) appropriating land scrip in full and final satisfaction of Virginia military bounty land warrants.

1st sess. 20th Cong., J. of S., 296.] MAY 23, 1844.

Mr. Hannegan submitted the following motion for consideration:
Ordered, That a message be sent to the House of Representatives requesting that the bill of that House entitled "An act to regulate the pay of the Army of the United States, and for other purposes" may be returned to the Senate for its further action thereon.
[Disagreed to May 24, yeas 16, nays 21. (Ib., 300.)]

1st sess. 28th Cong., J. of S., 371.] JUNE 15, 1844.

A message from the House of Representatives, by Mr. McNulty, its Clerk:

* * * * * * *

I am directed to inform the Senate of the pendency of a motion in the House of Representatives to reconsider the vote by which the bill (S. 20) entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the 31st degree of north latitude and between the Mississippi and Perdido rivers," was passed, and to request that said bill may be returned.
On motion by Mr. Evans,

Ordered, That the Secretary of the Senate deliver to the House of Representatives the bill (S. 20) the return of which has been requested.

1st sess., 29th Cong., J. of S., 419.] JULY 17, 1846.

A message from the House of Representatives, by Mr. French, its Clerk:

Mr. President: The House of Representatives has passed a resolution that a message be sent to the Senate requesting that the joint resolution of the House (No. 14) "for the relief of Sheldon B. Hayes" be returned to the House of Representatives, in order that an error in its engrossment may be corrected.

On motion,

Ordered, That the Secretary return to the House of Representatives the resolution (H. R. 14) for the relief of Sheldon B. Hayes, in pursuance of its request.

APPROPRIATION BILLS.

A literal interpretation of the Constitution would seem to give to the Senate the right to originate appropriation bills, and the right to originate private pension bills and bills for the payments of claims has never been questioned. The great appropriation bills, however, the House has always insisted upon the right to originate, and in this claim the Senate has acquiesced. In 1833 the compromise tariff bill was introduced in the Senate by Henry Clay, but as the same bill was passed by the House while Clay's bill was pending in the Senate the latter was laid on the table and the House bill passed. The question of the right of the Senate, therefore, became unimportant. (See G. and S. Reg. vol. 9, 476–480, and 722.)

In 1856 the Senate instructed the Committee on Finance to report such of the general appropriation bills as they deemed expedient. The subject was carefully considered at this time and fully debated by Messrs. Sumner, Seward, Hunter, and Toombs. An appropriation bill was reported, passed, and sent to the House. The House ignored it.

In 1871 the House returned to the Senate a bill to repeal the income tax with the respectful suggestion that the Constitution "vests in the House of Representatives the sole power to originate such measures." A conference was had, but no agreement was reached.

In 1872 the Senate again sent to the House a money bill as a substitute for a House bill. The House, after an elaborate discussion, laid the substitute on the table.

In 1880 "an act authorizing the Secretary of the Treasury to purchase additional lots of ground adjoining the new building for the Bureau of Engraving and Printing," passed by the Senate, was referred to the Committee on the Judiciary in the House. A majority of the committee reported that the Senate had the right to originate such a bill. The report was recommitted by the House.

This subject is discussed in the opinion of the Justices of the Supreme Court of Massachusetts in response to a question from the legislature (126 Mass., 557). The court were of the opinion that the clause of the State constitution confining the origin of "money bills" to the House of Representatives did not apply to bills for the appropriation of money.

1st sess. 34th Cong., J. of S., 10.] DECEMBER 11, 1855.

Mr. Broadhead submitted the following resolution for consideration.

Resolved, That the Committee on Finance be directed to inquire into the expediency of reporting the appropriation bills for the support of the Government, or adopting other measures with a view of obtaining more speedy action on such bills.

[Agreed to Jan. 7, 1856 (Ib. 53).]

Ib. 82.] FEBRUARY 4, 1856.

Mr. Hunter, from the Committee on Finance, reported the following resolution:

Resolved, That the Committee on Finance be instructed to prepare and report such of the general appropriation bills as they may deem expedient.

Ib. 94.] FEBRUARY 6, 1856.

The Senate proceeded to consider the resolution reported by Mr. Hunter the 4th instant, to instruct the Committee on Finance to prepare and report such of the general appropriation bills as they may deem expedient: and

On motion by Mr. Hunter.

Ordered, That the further consideration thereof be postponed until to-morrow at half past twelve o'clock, and be the special order of the day.

Ib. 96.] FEBRUARY 7, 1856.

The Senate resumed the consideration of the resolution, reported from the Committee on Finance, to instruct the committee to prepare and report such of the general appropriation bills as they may deem expedient; and

After debate,

The resolution was agreed to.

[Cong. Globe, 1st sess. 34th Cong. 375–381.]

[S. 1083, a bill to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes and for other purposes," as continues the income tax after the 31st day of December, 1869, was introduced in the Senate by Mr. Scott, Dec. 6, 1870 (3d sess, 41st Cong. J. of S., 25), read twice and laid on the table. It was referred to the Committee on Finance Dec. 8 (ib. 34), and on the 16th was reported adversely by Mr. Sherman (ib. 60). January 26, 1871, it passed the Senate, yeas 26, nays 25 (ib. 175).]

3d sess. 41st Cong., J. of S., 189.] JANUARY 30, 1871.

A message from the House of Representatives by Mr. McPherson, its Clerk:

* * * * * * *

I am directed by the House of Representatives to return to the Senate the bill of the Senate (S. 1083) to repeal so much of the act approved July 14, 1870, entitled, "An act to reduce internal taxes, and for other purposes," as continues the income tax after the 31st December, A. D. 1869, with the following resolution:

Resolved, That Senate bill (S. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes, and for other purposes," as continues the income tax after the 31st day of December, A. D. 1869, be returned to that body with the respectful suggestion on the part of the House that section 7, article 1, of the Constitution vests in the House of Representatives the sole power to originate such measures.

Ib., 191.] JANUARY 31, 1871.

The Senate proceeded to consider the resolution of the House of Representatives returning to the Senate the bill of the Senate (S. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes, and for other purposes," as continues the income tax after the 31st day of December, A. D. 1869, with the respectful suggestion that the Constitution vests the sole power in the House of Representatives to originate such measures.

Whereupon,

Mr. Scott submitted the following resolution:

Whereas the House of Representatives has returned to the Senate the bill (S. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes, and for other purposes," as continues the income tax after the 31st day of December, 1869, with the respectful suggestion on the part of the House that section 7, article 1, of the Constitution vests in the House of Representatives the sole power to originate such measures; and whereas the parliamentary law recognized by both Houses of Congress states that "when the methods of parliament are thought by one House to have been departed from by the other, a conference is asked, to come to a right understanding thereon." Therefore,

Resolved, That the bill be returned to the House of Representatives, and that the Senate ask a conference on the question at issue between the two Houses.

The Senate, by unanimous consent, proceeded to consider the said resolution; and,

After debate,

The resolution was agreed to.

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Scott, Mr. Conkling, and Mr. Casserly.

Ordered, That the Secretary notify the House of Representatives thereof.

Ib., 195.] JANUARY 31, 1871.

The following message was received from the House of Representatives by Mr. McPherson, its Clerk:

Mr. President: The House of Representatives has agreed to the conference asked by the Senate on the question at issue between the two Houses in relation to the bill (S. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce internal taxes, and for other purposes," as continues the income tax after the 31st day of December, A. D. 1869, and has appointed Mr. Samuel Hooper, Mr. Allison, and Mr. Voorhees managers at the same on its part.

3d sess. 41st Cong., S. Rep. No. 376.]

IN THE SENATE OF THE UNITED STATES.

March 2, 1871.—Ordered to be printed.

Mr. Scott from the Committee of Conference, appointed by the two Houses, to consider the question as to the power of the Senate to originate the bill (S. 1083) to repeal so much of the act approved July 14, 1870, entitled "An act to reduce in-

ternal taxes and for other purposes, as continues the income tax after the 31st day of December, 1869, submitted the following report:

The managers on the part of the Senate, of the Conference Committee appointed by the two Houses of Congress, to consider the question raised by the resolution of the House, adopted on the 27th of January, 1871, directing the return to the Senate of "Senate bill No. 1083, to repeal so much of the act approved July 14, 1870, entitled 'An act to reduce internal taxes and for other purposes,' as continues the income tax after the 31st day of December, 1869, with the suggestion that section seven of article one of the Constitution vests in the House of Representatives the sole power to originate such measures; and by the resolution of the Senate of February 1, 1871, returning said bill to the House, report:

That, having met, after full and free conference, the joint committee have been unable to agree.

JOHN SCOTT.
ROSCOE CONKLING.
E. CASSERLY.

The managers upon the part of the House of Representatives, Messrs. Hooper, Allison, and Voorhees, maintained "that, according to the true intent and meaning of the Constitution, it is the right of the House of Representatives to originate all bills relating directly to taxation, including all bills imposing or remitting taxes; and that, in the exercise of that right, the House of Representatives shall decide the manner and time of the imposition and remission of all taxes, subject to the right of the Senate to amend any of such bills, originating in the House, before such bills have become a law."

The managers upon the part of the Senate maintained "that, according to the true intent and meaning of the seventh section of the first article of the Constitution, 'bills for raising revenue' are those bills only the direct purpose of which is to raise revenue by laying and collecting taxes, duties, imposts, or excises, and that a bill may originate in the Senate to repeal a law or portion of a law which imposes taxes, duties, imposts, or excises."

In advising adherence to the position taken by the managers upon the part of the Senate, they deem it a proper occasion to present the reasons which, in their opinion, justify them in that advice.

The words of the Constitution which are viewed in these opposite senses are as follows:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

In seeking for the meaning of this provision, we naturally look at the history and circumstances which preceded and attended its adoption; at the practice of Congress in its legislation under it; and at the construction which has been put upon it by commentators.

The men who framed our Constitution were students of the unwritten constitution of England, and there can be no doubt that this provision is such a modification of the practice of the House of Commons, as to money bills, as they believed suited to the new government they were then forming.

That we may see clearly what that practice was, and the reasons which are assigned for it, we quote the words of Sir William Blackstone:

"The peculiar laws and customs of the House of Commons relate principally to the raising of taxes and the elections of members to serve in Parliament."

"First, with regard to taxes, it is the ancient indisputable privilege and right of the House of Commons that all grants of subsidies or parliamentary aids do begin in their house, and are first bestowed by them; although their grants are not effectual, to all intents and purposes, until they have the assent of the other two branches of the legislature. The general reason given for this exclusive privilege of the House of Commons is that the supplies are raised upon the body of the people, and therefore it is proper that they alone should have the right of taxing themselves. This reason would be unanswerable if the Commons taxed none but themselves; but it is notorious that a very large share of property is in the possession of the House of Lords; that this property is equally taxable, and taxed as the property of the Commons; and therefore the Commons not being the *sole* persons taxed, this can not be the reason of their having the *sole* right of raising and modeling the supply. The true reason, arising from the spirit of our constitution, seems to be this: The Lords being a permanent, hereditary body, created at pleasure by the king, are supposed more liable to be influenced by the Crown, and when once influenced to continue so, than the Commons, who are a temporary, elective body, freely nominated by the people. It would therefore be extremely dangerous to give the Lords any power of framing new taxes for the subject; it is sufficient that they have a power of rejecting, if they think the Commons too lavish or improvident in their grants. But so unreasonably jealous are the Commons of this valuable privilege, that herein they will not suffer the other house to exert any

power but that of rejecting; they will not permit the least alteration or amendment to be made by the Lords to the mode of taxing the people by a money bill; under which appellation are included all bills by which money is directed to be raised upon the subject, for any purpose or in any shape whatsoever; either for the exigencies of the government, and collected from the kingdom in general, as the land-tax; or for private benefit, and collected in any particular district, as by turnpikes, parish rates, and the like. (Blackstone's Commentaries, book 1, chap. 2, pp. 168, 169.")

Money bills, in the practice of Parliament, embrace not only those by which money is directed to be raised, but also those by which supplies are granted, or what we term appropriation bills. Not only was the right claimed and exercised by the Commons to originate both these classes of bills, but finally, in 1678, their claim was urged so far as to exclude the Lords from all power of amending bills of supply. On the 3d of July in that year, they resolved—

"That all aids and supplies ought to begin with the Commons, and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords. (May's Parliamentary Practice, pp. 506, 507.")

Bearing in mind the practice and the reasons for it, as given by Blackstone, we next come to consider the circumstances attendant upon the adoption of the clause of the Constitution, the true intent and meaning of which is the subject of disagreement between the House and Senate.

No question could have presented itself more forcibly to the minds of the members of the convention which framed the Constitution than that of taxation. The inability of the confederation to enforce its requisitions for revenue upon the States was one of the leading causes, if not *the* leading cause, which led to the call for that convention.

What light, then, do the proceedings which resulted in the adoption of the clause under consideration shed upon its meaning?

That convention met on the 14th of May, 1787, but a majority of members did not appear until the 25th of that month.

The first proposition bearing upon this question was offered immediately after the adoption of the rules for regulating the proceedings, upon the 29th of May. It appears in the resolutions offered by Edmund Randolph. The prior resolutions having provided for two branches of a national legislation, the 6th reads thus:

"That each branch ought to possess the right of originating acts * * * (1st Elliot's Debates, p. 144)."

In the draught of a Federal Government submitted, on the same day, by Charles Pinckney, is this provision in article 3:

"All money bills of every kind shall originate in the House of Delegates, and shall not be altered by the Senate. * * * (Ib., p. 146.")

On the 31st of May the sixth resolution of Mr. Randolph was adopted. (Ib., p. 153.)

On the 13th of June Mr. Gerry moved to add the following words to the fifth resolution reported by the committee, being the sixth offered by Mr. Randolph (see page 181), namely: "*excepting money bills which shall originate in the first branch of the National Legislature.*" This was negatived—yeas 3, nays 8. (Ib., p. 174.)

On the 19th of June the committee of the whole reported on the resolutions submitted by Mr. Randolph, and the fifth resolution as reported by them is, "That each branch ought to possess the right of originating acts." (Ib., p. 181.)

On the the 26th of June this passed unanimously. (Ib., page 191.)

It was at this stage the convention reached the question of representation in the two branches of Congress, and as this is alleged to have entered into the final settlement of the question we are considering, it is proper it should be noticed.

On the 2d of July a committee was elected by ballot, consisting of one member from each State, to whom the resolution (the 7th and 8th) providing for representation was referred.

On the 5th of July that committee recommended to the convention the following propositions:

"1. That, in the first branch of the legislature, each of the States now in the Union be allowed one member for every forty thousand inhabitants of the description reported in the seventh resolution of the committee of the whole house; that each State not containing that number shall be allowed one member; that all bills for raising or appropriating money, and for fixing the salaries of the officers of the Government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch.

"2. That, in the second branch of the legislature, each State shall have an equal vote. (Ib., page 194.)"

On the 6th of July the first part of the first proposition was referred to a select committee, and that part providing for "bills for raising or appropriating money," etc., being submitted to a vote was declared adopted, the vote standing thus: Yeas, 5 States; nays, 3 States; divided, 3 States. (Ib., pages 195–196.)

On the 16th of July the whole subject of representation and money bills was embodied in a report which fixed the number of Representatives, provided that representation ought to be proportioned according to direct taxation and for a census, gave each state equal representation in the Senate, and contained this provision:

"*Resolved*, That all bills for raising or appropriating money, and for fixing salaries of the officers of the Government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch. (Ib., pp. 205, 206.)"

On the 26th of July all the propositions previously adopted were referred to the committee of detail. (Ib., pp. 220, 221, 222.)

On the 6th of August the committee reported a draft of a constitution (p. 224), in which section 5 of article 4 is in the same words as the resolution above quoted from page 206. Section 12 of article 6 also read, "Each House shall possess the right of originating bills except in the cases before mentioned."

We now come to the point where the action was taken fixing the number of Representatives and Senators, and striking out the 5th section of the 4th article, as before adopted. This action took place on the 8th of August. (Ib., pp. 232, 233, 234.) The section thus struck out was again moved on the 13th of August and rejected. (Ib., p. 241.)

It is stated in the Madison Papers (pp. 1268, 1297, 1306) that this was a motion to reconsider the rejection, and that it prevailed. The vote after reconsideration is given upon the separate propositions. (Ib., p. 1316.)

On the first part, as to the exclusive originating of money bills in the House, it stood: ayes 4, nays 7. On originating by the House and amending by the Senate: ayes 4, nays 7.

On the last clause, as to drawing money on appropaieions which must originate in the House: ayes 1, nays 10.

On the 15th of August this provision was again offered as an amendment to the 12th section of the 6th article of reported draft, and its consideration was postponed. (1 Elliot's Debates, p. 243.)

On the 5th of September the committe reported a substitute for the twelfth sec- of the sixth article, which, on the 8th of September, was adopted in the words which now make the seventh section of the first article, and upon the true meaning of which the House and Senate differ. (Ib., 285, 295.)

This may seem a tedious and perhaps unnecessary detail of the steps which preceded the adoption of this section. At the risk of this criticism, it has been given, as we desire by this history, and referring to the debates as given in the Madison Papers, but which we have not quoted, to show—

1. That the convention started with the two opposite ideas before it, viz: "That each House ought to possess the right of originating acts," and "that all money bills of every kind shall originate in the House of Delegates, and shall not be altered by the Senate."

2. That until the question of representation in the Houses was reached, the first of these propositions was twice adopted, and the second, when presented as an amendment to the first, was rejected.

3. That the first time the limitation of the power of the Senate to originate bills of any class received the sanction of the convention, was while the question of representation was unsettled and in the hands of a committee; and then, out of eleven States, but five voted for it, three being divided, and three voting no.

4. That when this limitation was reported back by the committee, accompanied by the fixing of representation in the House and Senate, the vote stood: ayes, 5; noes, 4; divided, 1.

5. That when it was thus adopted, the original proposition of Mr. Randolph, that "each House ought to possess the right of originating acts," also stood as adopted.

6. That after the representation in the House and the Senate was fixed, those provisions before adopted, which required appropriation bills, and bills fixing salaries of officers, and denied the power of amendment to the Senate, were stricken out, and the effort afterward made to reinsert them failed.

7. That it was claimed in the Senate, that section 5 of article 4, should have been retained with these limitations in it, because it was a compromise to secure the larger States against the imposition of taxes, by bills originating in the Senate, where the States had equal representation; that, notwithstanding this, it was stricken out; and that of the five larger States to which this was considered applicable, three of them had uniformly voted against all limitation in the power of the Senate. (Madison Papers, vol. 3, pp. 1266–1267, 1306–1316.)

In the light of this history and summary, we place, in parallel columns, the section which was stricken out, and the section as it was reported by the committee and adopted:

Stricken out.	*As adopted.*
All bills for raising or appropriating money, *and for fixing the salaries of the officers of the Government,* shall originate in the House of Representatives, AND SHALL NOT BE ALTERED OR AMENDED BY THE SENATE. No money shall be drawn from the public Treasury but in pursuance of appropriations, WHICH SHALL ORIGINATE IN THE HOUSE OF REPRESENTATIVES.	All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills. No money shall be drawn from the Treasury but in consequence of appropriations made by law.

The first clause of the section as adopted is now the seventh section of the first article, the second clause being transferred by the revising committee to section nine. Before commenting upon the meaning of the clause as adopted, it is proper also to insert here the form of words which Mr. Randolph desired to use in reinserting the rejected clause:

"Article 4, section 5, being reconsidered—

"Mr. Randolph moved that the clause be altered so as to read: 'Bills for raising money *for the purpose of revenue,* or for appropriating the same, shall originate in the House of Representatives.' * *" (Madison Papers, pp. 1305–1306.)

The object of this amendment was declared to be to exclude the idea that the section extended to all bills which might incidently affect the revenue. With all this in remembrance, the committee of revision reported the words as they now stand in section seven, article one.

Now, recurring to the section stricken out, and looking at the parts omitted, which are placed in *Italics,* it will be apparent that the omission of the proposed restrictions upon the power of the Senate is equal to an express affirmation that the Senate has the power—

First. To originate appropriation bills;

Second. To originate bills for fixing the salaries of the officers of the Government, and, by way of emphasizing the fact, a reassertion;

Third. That money may be drawn from the Treasury upon appropriations which do not originate in the House of Representatives.

In view of this clear declaration of the intent of the framers of the Constitution, which would seem to leave no room for question as to the only power intended to be vested in the House to the exclusion of the Senate, let us see what has been the practice of Congress under it.

And first, as to appropriation bills. It is true that the power to originate them is not in question now; but having shown, as we think, clearly, that the Senate has that power, it is well to look at the extent to which this claim of exclusive right is pushed, how unfounded it is, and in what inconsistent positions the House has placed its own claim by its action. When we find it asserted in one instance and expressly repudiated in another, and when it is a claim made in derogation of the power of the Senate, this double construction should certainly excuse some doubt as to whether the claim is well established. And yet it is easy to demonstrate that the House has both asserted and denied that "bills for raising revenue" include appropriation bills. Without enumerating the precedents to which we are referred, it is sufficient to say that the acts of the House upon amendments to its own bills, and upon those originating in the Senate, came in direct antagonism with each other. The claim has been that appropriation bills are revenue bills within the meaning of the Constitution. If an appropriation bill is one of that class, then no amendment which the Senate could add to it would be liable to objection, because the same clause of the Constitution which requires them to originate in the House, expressly empowers the Senate to amend them, as it may amend other bills. If it is not one of that class required by the Constitution to originate in the House, then it is not a bill "for raising revenue," and may properly originate in the Senate.

The post-office appropriation bill, in the second session of the Thirty-fifth Congress, originated in the House, and the Senate added an amendment, raising the rates of postage. When this was returned to the House, Mr. Grow objected that "said amendment is in the nature of a revenue bill." (Congressional Globe, March 3, 1859, page 1667.)

The bill was returned to the Senate, and, the Senate adhering to its view, it failed. This was a decision by the House that an appropriation bill *is not* a revenue bill; for if it were, the amendment was within the power of the Senate.

As to bills incidently affecting the revenue, the compromise tariff of 1833, the

resolution of Mr. McDuffie, in 1844, to substitute the duties of the compromise bill for those of the tariff of 1842, and the defeat of it, as also the action of the House upon the Treasury-note bill of the Senate in 1837, are referred to by the managers, on the part of the House, to sustain their position.

As to the compromise bill, it is sufficient to say that upon its introduction into the Senate, the point was made against its reception, that it contained one section which increased duties on Kendall woolens, although all the other sections *reduced* duties; that the objector (Mr. Forsyth) agreed if that section were withdrawn, the bill could properly be introduced in the Senate; that it was introduced notwithstanding that section was retained; and that the debate and action upon its reception and passage indicate the opinion of the Senate that a bill to *reduce* duties could originate in the Senate. This bill, although received and considered in the Senate, was not sent to the House, as a bill in the same words was introduced there, and passed to avoid this question, and the Senate passed it.

The action, in 1844, laying upon the table Mr. McDuffie's resolution, indicates a different opinion; but neither of these cases is at all parallel to the case in hand. It will also be noted that the Senate, which was favorable to Mr. Clay's bill, received it as a proper measure to originate in that body; and that the Senate, which laid Mr. McDuffie's resolution upon the table, was opposed to the measure it proposed. It is probable the precedents lose some of their value from these facts, when quoted upon a question of constitutional law. The loan bill of last session is sufficient answer to the precedent of the Treasury note bill, without entering into an examination of the power under the Constitution to borrow money. The question might well be raised whether the Senate has the power to originate a bill establishing a different mode of taxation, or a different scale of duties, even if they are reductions of the existing taxes and duties; for, whether it be more or less, a tax or duty imposed does raise reveuue; but it seems to be a contradiction in terms to say that a bill to repeal a special tax altogether, and thus prevent the collection of revenue from that source, is a bill for raising revenue. That the repeal may necessitate the imposition of other taxes is no argument against the power to introduce such a bill. It would be equally good against the power to originate a bill fixing the salaries of officers of Government, for every increase in these salaries necessitates additional taxation; and yet we think it has been shown that this power is undoubtedly possessed by the Senate.

Besides, the repeal of the tax cannot be accomplished without the concurrence of the representatives of the people, who will then have the determination of whether it does require other taxes to be laid, and if it does, what these taxes shall be. Thus no safeguard of *the people* is taken away by the exercise of this power by the Senate.

Again, if, as contended, the clause was intended as a protection to the larger States against the imposition of taxes by origination in the Senate where each State has equal representation, how is this security affected by permitting the Senate to originate a meausure for relief from that taxation which has already originated in the House? If the larger States can, by originating tax laws in the House, do injustice to the smaller ones, which have fewer representatives, may not the smaller States through the Senate, where each State is equal, at least make the effort to procure justice from the House, by sending it a measure for repeal.

That no such view as that now taken has ever heretofore been seriously urged may fairly be inferred from the following list of laws upon the statute books, all of which originated in the Senate, and, as will be seen by their titles, much more nearly approach the character of revenue measures than does the bill for the repeal of the income tax.

Others of similar character might doubtless be referred to if time permitted a more extended examination of the journals, but these, beginning in 1815, and coming down to the session of 1870, will suffice to show the acquiescence of Congress in the power now questioned:

"1. To repeal so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposes discriminating duties. (Statutes, vol. 3, p. 224, ch. 77. March 3, 1815.)

"2. To continue in force the second section of the act supplementary to an act to regulate the duties on imports and tonnage. (Statutes, vol. 3, p. 369, ch. 50. March 3, 1817.)

"3. To continue in force act passed 20th of May, 1818, supplementary to the act to regulate the collection of duties on imports and tonnage, passed March 2, 1799. (Statutes, vol. 3, p. 563, ch. 44. April 18, 1820.)

"4. To equalize the duties on vessels of the Republic of Columbia and their cargoes. (Vol. 4, p. 154, ch. 26. April 20, 1826.)

"5. In addition to an act concerning discriminating duties of tonnage and imports, and to equalize the duties on Prussian vessels and their cargoes. (Vol. 4, p. 308, ch. 11. May 24, 1828.

"6. To repeal the tonnage duties upon ships and vessels of the United States, and upon certain foreign vessels. (Vol. 4, p. 425, ch. 219. May 31, 1830.)

"7. To explain and amend the 18th section of the act of July 14, 1832, to alter and amend the several acts imposing duties on imports. (Vol. 4, p. 635, ch. 58. March 2, 1833.)

"8. An act concerning the duties on lead. (Vol. 4, p. 717, ch. 139. June 30, 1834.)

"9. Further to suspend the operation of certain provisos to an act to alter and amend the several acts imposing duties on imports, approved July 14, 1832. (Vol. 4, p. 778, ch. 44. March 3, 1835.)

"10. To suspend the discriminating duties upon goods imported in vessels of Portugal, and to reduce the duties on wines. (Statutes, vol. 5, p. 725, ch. 359. July 4, 1836.)

"11. Explanatory of an act to release from duty iron prepared for and actually laid on railways and inclined planes. (Statutes, vol. 5, p. 61, chap. 233. July 1, 1836.)

"12. An act regulating commercial intercourse with the port of Cayenne, in the colony of French Guiana, and to remit certain duties. (Statutes, vol. 5, p. 489. June 1, 1842.)

"13. To reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for prevention of frauds on the revenues of the Post-Office Department. (Statutes, vol, 5, p. 732, chap. 43. March 3, 1845.)

"14. An act reducing the duty on imports, and for other purposes. (Statutes, vol. 11, p. 192, chap. 98. March 3, 1857.)

"15. Supplementary to act to authorize a national loan, and for other purposes. (Statutes, vol. 12, p. 313, chap. XLVI. August 5. 1846.)

"16. An act to authorize the refunding of the national debt. (Statutes of second session forty-first Congress, p. 272. July 14, 1870.")

Having examined the adoption of this clause of the Constitution and the practice under it, let us now look at the construction which has been put upon it by commentators and others of authority. In aiding us to construe it, we quote what Gouverneur Morris, one of that committee of revision says, in his remarkable letter to Timothy Pickering, written in 1814:

"What can a history of the Constitution avail toward interpreting its provisions? This must be done by comparing the plain import of the words with the general tenor and object of the instrument. *That instrument was written by the fingers which write this letter. Having rejected redundant and equivocal terms, I believed it to be as clear as our language would permit,* excepting, nevertheless, a part of what relates to the judiciary."

If the language had been, "all bills *for the purpose* of raising revenue," it would hardly be contended that the plain import of these words would include not only a bill to appropriate revenue, but also one to repeal an act which had for its purpose the raising of revenue. And yet if these words had been inserted, it is submitted they would have been considered redundant and stricken out. The words now used convey the same meaning as if Mr. Randolph's amendment had been adopted, the term "revenue" being substituted for money. A bill for raising revenue, in the plain import of the words, means a bill which intends to have, and will have, the effect of raising revenue; not of raising in the sense of increasing, but of producing, yielding revenue, and putting it into the Treasury.

George Mason, in assigning his reasons for not signing the Constitution (1 Elliott's Debate, page 494,) says:

"The Senate have the power of altering all money bills, and of originating appropriations of money, and the salaries of the officers of their own appointment, in conjunction with the President of the United States, although they are not the representatives of the people, or amenable to them."

Story, in his Commentaries on the Constitution, after reviewing the practice as to money bills in the British Parliament, and the history of the clause in our Constitution, says:

"What bills are properly bills for raising revenue, in the sense of the Constitution, has been matter of some discussion. A learned commentator supposes that every bill which indirectly or consequentially may raise revenue is, within the sense of the Constitution, a revenue bill. He, therefore, thinks that the bills for establishing the Post-Office and the Mint, and regulating the value of foreign coin, belong to this class, and ought not to have originated, as in fact they did, in the Senate. (1 Tucker's Black. Com., appendix 261 and note.) But the practical construction of the Constitution has been against his opinion. And indeed the history of the origin of the power, already suggested, abundantly proves that it has been confined to bills to levy taxes in the strict sense of the words, and has not been understood to extend to bills for other purposes which may incidentally create revenue. No one supposes that a bill to sell any of the public lands, or to sell the public stock, is a bill to raise revenue, in the sense of the Constitution. Much less would a bill be so deemed which merely regulated the value of foreign or domestic coins, or authorized a discharge of insolvent debtors upon assignments of

their estates to the United States, giving a priority of payment to the United States in cases of insolvency, although all of them might incidentally bring revenue into the Treasury. (Section 877.)"

The same view is taken in Bouvier's Law Dictionary, title "Money bills." Rawle, in his view of the Constitution (page 60), questions the policy or necessity of this exception, but says, "It was probably supposed that the members of the House of Representatives, coming more frequently from the body of the people, and, from their numbers combining greater variety of character and employment, would be well qualified to judge not only of the necessity but also of the methods of *raising revenue*. On all other subjects a bill may originate in either house."

Curtis, in his History of the Constitution, considers that the adoption of this clause was influenced by the settlement of the mode of electing the President, in case of failure to choose by the electors. He says:

"To this great influence [that of electing the President by the Senate], many members from the larger States desired, naturally, to add the privilege of confining the origin of revenue bills to the House of Representatives. They found in the committee some members from the smaller States willing to concede this privilege, as the price of an ultimate election of the Executive by the Senate, and of other arrangements which tended to elevate the tone of the Government by increasing the power and influence of the Senate. They found others, also, who approved of it upon principle. The compromise was accordingly effected in the committee, and in this attitude the question concerning revenue bills again came before the convention.

"But there, a scheme that seemed likely to elevate the Senate into a powerful oligarchy, and that would certainly put it in the power of seven States, not containing a third of the people, to elect the Executive, when there failed to be a choice by the electors, met with strenuous resistance. For these and other reasons, not necessary to be recounted here, the ultimate choice of the Executive was transferred from the Senate to the House of Representatives. This change, if coupled with the concession of revenue bills to the House, without the right to amend in the Senate, would have thrown a large balance of power into the former assembly; and in order to prevent this inequality, a provision was made, in the words used in the constitution of Massachusetts, that the Senate might propose or concur with amendents, as on other bills. With this addition, the restriction of the origin of bills for raising revenue to the House of Representatives finally passed, with but two dissentient votes." (Vol. 2, pages 221-222.)

Adding as a foot note:

"The history of this provision shows clearly that a bill for appropriating money may originate in the Senate."

The only authority quoted as directly asserting the view now taken by the House managers is Tucker's Blackstone (vol. 1, page 195), and note in appendix, (page 261.)

The first reference we find to be a discussion, not of this clause of the Constitution, but of the equality of representation in the Senate, and, taken altogether, does not sustain the position for which it is quoted. It reads thus:

"As States, then, Rhode Island and Delaware are entitled to an equal weight in council on all occasions, *where that weight does not impose a burden upon the other States in the Union*. Now, as the relation between taxation and representation, in one branch of the legislature, was fixed by an invariable standard, and as that branch of the legislature possesses the exclusive right of originating bills on the subject of revenue, the undue weight of the smaller States is guarded against effectually in the imposition of burdens. In all other cases their interests, as States, are equal, and deserve equal attention from the Confederate Government. This could no way be so effectually provided for as in giving them equal weight in the second branch of the legislature, and in the Executive, whose province it is to make treaties, etc. Without this equality somewhere, the Union could not, under any possible view, have been considered as an equal alliance between equal States The disparity which must have prevailed, had the apportionment of representation been the same in the Senate as in the other House, would have been such as to have submitted the smaller States to the most debasing depenence. I cannot, therefore, but regard this particular in the Constitution as one of the happiest traits in it, and calculated to cement the Union equally with any other provision that it contains."

On page 261 is a discussion of the power to coin money, and in a note the opinion of the annotator is shown to be contrary to the practice of the Government in its early history. We give it in full. Speaking of the bill which allowed a charge for coinage at the Mint, he said:

"Consequently, every bill for this purpose, or for any other by which a revenue may be raised, should originate in the House of Representatives. Yet I am very much mistaken if a recurrence to the early journals of the Senate of the United

States would not prove that the several acts for establishing the Post-Office, for regulating the value of foreign coins, and for establishing a Mint, all originated in the Senate. The reason of the acquiescence of the House of Representatives on these occasions probably was, that no revenue was intended to be drawn to the Government by these laws: whereas strictly speaking, a revenue is raised by the act establishing the Mint (2 Cong. C. 16, sec. 14), equal to one-half per centum, as an indemnification to the Mint for the coinage; and in the case of the bill for establishing the Post-Office, there can be no room to doubt that it operates as a revenue law, and that to a very considerable amount."

To show, however, the same author's view of the clause now under consideration, we quote him on page 215:

"In the course of this parallel we have seen that every deviation in the Constitution of the United States from that of Great Britain has been attended with a decided advantage and superiority on the part of the former. We shall perhaps discover, before we dismiss the comparison between them, that all its defects arise from some degree of approximation to the nature of the British government.

"The exclusive privleges of the House of Commons, and of our House of Representatives, with some small variation, are the same. The first relates to money bills, in which no amendment is permitted to be made by the House of Lords, is modified by our Constitution so as to give the Senate a concurrent right in every respect, except in the power of originating them, and this upon very proper principles; the Senators not being distinguished from their fellow-citizens by any exclusive privileges, and being, in fact, the representatives of the people, though chosen in a different manner from the members of the other House, no good reason could be assigned why they should not have a voice on the several parts of a revenue bill, as well as on the whole taken together."

Without extending these quotations further we may safely say, not only, that the legal authorities sustain the position taken by the managers on the part of the Senate, but many of them point out also the dissimilarity between our Government and that from which this restriction was borrowed, and that the provision is a remnant of English law and custom, not in harmony with our institutions.

The grant of the power of amendent was a surrender of the whole principle, for the power of amendent has no limit. If the House propose to tax at one rate, the Senate may amend to another—lesser or greater. To any bill for raising revenue they may add amendments which increase or diminish burdens; which select new objects of taxation, or omit those proposed by the House. If they increase salaries or make appropriations, taxation may be necessary to pay them if the House concur. So, if they propose to repeal the income tax, can more be said than that other taxes MAY be necessary, or may not be? Is the power to depend upon such a contingency? If so, where does this limitation top?

As Congress can exercise only the powers granted, and such powers as are necessary to carry them into effect, is it not reasonable to say that when one branch of Congress claims any power to the exclusion of the other branch, that exclusion should be as plainly written as an express grant of power. Brought to that test, it will be hard to find such exclusion of the power to repeal a law in the words, "all bills for raising revenue shall originate in the House of Representatives."

Looking at the origin and history of this clause, at the constant and unquestioned practice under it in the passage of so many laws which may effect revenue, at the preponderence of legal authority in construing it, and at the manifest difference between the structure and powers of our Government, and those of the British Government, upon whose practice this distinction is sought to be established, we can not doubt that the Senate had the power to originate the bill which has given rise to this question, and, so considering, we do not think further conference necessary.

2d sess. 42d Cong., J. of H., 620.] APRIL 2, 1872.

Mr. Dawes, from the Committee on Ways and Means, reported the following resolution:

Resolved, That the substitution by the Senate, under the form of an amendment, for the bill of the House (H. R. 1537), entitled, "An act to repeal existing duties on tea and coffee," of a bill entitled, "An act to reduce existing taxes," containing a general revision, reduction, and repeal of laws imposing import duties and internal taxes, is in conflict with the true intent and purpose of that clause of the Constitution which requires that "all bills for raising revenue shall originate in the House of Representatives;" and that therefore said substitute for the House bill No. 1537 do lie on the table.

And be it further resolved, That the Clerk of the House be, and is hereby, directed to notify the Senate of the passage of the foregoing resolution.

[After debate it was agreed to—yeas 153, nays 9, not voting 78.—Cong. Globe 2d sess. 42d Cong., 2105-2112.]

2d sess. 42d Cong., J. of S., 478.] APRIL 2, 1872.

A message from the House of Representatives, by Mr. Lloyd, Chief Clerk. [Informing the Senate of the passage of the above resolution.]

On motion of Mr. Morrill of Vermont,

Ordered, That it lie on the table.

Ib., 514.] APRIL 8, 1872.

On motion of Mr Sherman,

Ordered, That the said resolution be referred to the Committee on Finance.

Ib., 526.] APRIL 10, 1872.

On motion of Mr. Sherman,

Ordered, That the Committee on Finance be discharged from the further consideration [of the above], and that it be referred to the Committee on Privileges and Elections.

[The committee reported April 24 (ib. 596.)]

2d sess. 42d Cong., S. Rep., 146.]

IN THE SENATE OF THE UNITED STATES.

APRIL 24, 1872.—Ordered to be printed.

Mr. Carpenter, from the Committee on Privileges and Elections, submitted the following report:

The Committee on Privileges and Elections, to whom were referred the resolutions of the House of Representatives of April 2, 1872, as follows:

"*Resolved*, That the substitution by the Senate, under the form of an amendment, for the bill of the House (H. R. 1537) entitled 'An act to repeal existing duties on tea and coffee,' of a bill entitled 'An act to reduce existing taxes,' containing a general revision, reduction and repeal of laws imposing import duties and internal taxes, is in conflict with the true intent and purpose of that clause of the Constitution which requires that all bills for raising revenue shall originate in the House of Representatives; and that, therefore, said substitute for House bill No. 1537 do lie upon the table.

"*And be it further resolved*, That the Clerk of the House be, and he is hereby, directed to notify the Senate of the passage of the foregoing resolution."

Respectfully report that they have maturely considered the unhappy difference between the Senate and House of Representatives, with a sincere desire to arrive at a conclusion which shall maintain the constitutional jurisdiction of the Senate and fully respect the exclusive prerogative of the House of Representatives to originate bills for raising revenue.

To consider this matter properly, it becomes necessary to advert to the attitude of the two Houses in relation to it.

At the last session of Congress the Senate passed a bill to repeal the tax upon incomes. The House of Representatives laid the bill upon the table, and sent a resolution to the Senate declaring that the Senate had no constitutional power to originate the bill, and that its attempt to do so was in violation of the first clause of the seventh section of the first article of the Constitution, which is as follows:

"All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills."

This was a distinct declaration on the part of the House of Representatives that a bill to abolish a tax or duty was a bill for raising revenue within the meaning of this clause of the Constitution.

During the present session the House of Representatives passed, and sent to the Senate for its concurrence, a bill to abolish all duties upon tea and coffee. This bill was a bill for raising revenue, if the House of Representatives was right in deciding that the bill passed by the Senate to abolish the tax upon incomes was a bill for raising revenue. The Senate so treated this bill to abolish all duties upon tea and coffee, and concurred, with amendments, adding some articles to the free list, reducing the duties upon other articles, and abolishing other taxes altogether. The bill thus passed with amendments was returned to the House of Representatives; whereupon the House laid it upon the table, and sent to the Senate the resolutions which have been referred to the committee, and form the subject of this report.

Assuming that a bill to abolish a certain duty or tax is a bill for raising revenue, within the meaning of the Constitution, as the House of Representatives determined

in regard to the bill abolishing the tax upon incomes, the power of the Senate in regard to it is regulated by the provision of the Constitution—

"The Senate may propose or concur with amendments as on other bills;"

and the right of the Senate to put upon it the amendments with which it was returned to the House is, in the opinion of your committee, clearly conferred by this provision.

Without the provision of the Contitution under consideration, it will be conceded that such a bill might have originated in either House of Congress, and originating, as in this case, in the House of Representatives, the Senate might amend it in any particular or to any extent. But this provision of the Constitution is a limitation upon the power of the Senate which must be obeyed by the Senate to its full extent, but should not be extended beyond the fair scope and plain import of the phraseology employed. What, then, is the restriction laid upon the Senate? Simply and only this: The Senate shall not "originate" a bill for raising revenue, that being the exclusive prerogative of the House of Representatives. But, exceptiong only the origination of the bill, the Senate possesses the same power in regard to bills for raising revenue as in regard to any other bills; or, to quote the language of the Constitution, it may amend a bill for raising revenue as it may amend "any other bill."

To understand the full import of this provision of the Constitution, empowering the Senate "to propose or concur with amendments as on other bills," it is necessary to consider the parliamentary law of England, which was perfectly understood by the authors of our Constitution, and which must be presumed to have been in mind when they framed this provision.

By the parliamentary law of England, at the time our Constitution was adopted, it was well settled that the House of Lords could not change a bill for raising revenue. The House of Lords could propose only formal amendments. They might change expressions, but not substance. Anciently the House of Lords exercised the power of amending supply bills, "but in 1671 the Commons advanced their claim by resolving, *nem. con.*, 'That in all aids given to the King by the Commons, the rate or tax ought not to be altered;' and in 1678 their claim was urged so far as to exclude the Lords from all power of amending bills of supply." On the 3d of July in that year they resolved—

"That all aids and supplies, and aids to His Majesty in Parliament, are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, limitations, and qualifications of such grants; which ought not to be changed or altered by the House of Lords."

This resolution settled the principle upon which the English Parliament were proceeding when our Constitution was adopted; and it was well understood that the Lords could make only verbal amendments; "and even in regard to these, when the Commons had accepted them, they had made special entries in their journal, recording the character and object of the amendments, and their reasons for adhering to them." (May's Parliamentary Practice, chap. 21.)

But the practice in Parliament went even beyond this.

"In bills not confined to matters of aid, or taxation, but in which pecuniary burdens are imposed upon the people, the Lords may make any amendments, provided they do not alter the intentions of the Commons with regard to the amount of the rate or charge, whether by *increase* or *reduction;* its duration, its mode of assessment, levy, collection, appropriation, or management; or the persons who shall pay, receive, manage, or control it; or the limits within which it is proposed to be levied. As illustrative of the strictness of this exclusion, it may be mentioned that the Lords have not been permitted to make provision for the payment of salaries or compensation to officers of the court of chancery, out of the suitors's fund; nor to amend a clause prescribing the order in which charges on the revenues of the colony shall be paid. But all bills of this class must originate in the Commons; as that house will not agree to any provisions which impose a charge of any description upon the people, if sent down from the Lords, but will order the bills containing them to be laid aside.—(Ibid.)"

With this strictness of parliamentary law, which denied to the Lords the right to propose other than mere verbal amendments, "not changing the sense," our fathers provided in the Constitution that the Senate might amend bills for raising revenue, not only as to matters of form, but that the Senate might amend the same *as they might amend other bills.* In other words, when a bill for raising revenue has originated in the House, no limitation is placed by the Constitution upon the power of the Senate to amend it on account of its being a bill for raising revenue. The exclusive prerogative of the House of Representatives in relation to such bills is simply to *originate* them.

Your committee are at a loss to know how this matter can be made plainer than the express words of the Constitution make it. The provision in relation to such bills that "the Senate may propose or concur with amendments as on other bills," de-

clares this power of the Senate as clearly as language can declare it. The Constitution does not prescribe what amendments, or limit the extent of the amendments which the Senate may propose; and the House of Representatives cannot regulate or limit a power which the Constitution has, in express words, so broadly conferred upon the Senate.

What amendments, then, may be proposed by either House to bills received from the other, in the usual course of legislation?

The second clause of section five of Article I of the Constitution provides:

"Each House may determine the rules of its proceedings."

This gives the Senate full power to establish such rules, including a regulation of the subject of amendments to bills, as it may deem proper; and so far as the other House is concerned, it is the province of either House to adopt rules authorizing an amendment of a bill in any respect or particular, except that the Senate could not, by amendment to a bill not raising revenue, add provisions which would raise revenue, because this would be a violation of the provisions requiring bills for raising revenue to originate in the House of Representatives.

This latitude of amendment is in practice in all the State legislatures, has always been practiced in both Houses of Congress, and, with the exception of what are called "money bills," has always been practiced in Parliament.

Cushing's Parliamentary Law, section 1, chapter 5, part 6, speaking of amendments, says:

"According to the etymology of the word, it might be supposed that nothing could be considered as an amendment which did not relate to and purport to improve the original proposition. But this would be far from conveying an adequate idea of what is meant by the term amendment. A proposition may be amended, in parliamentary phraseology, not only by an alteration which comes out and effects the purpose of the mover, but also by one which entirely destroys that purpose, or which even makes the proposition express a sense the very reverse of that intended by the mover; and, in like manner, a motion which proposes one kind of proceeding may be turned into a motion for another of a wholly different kind, by means of an amendment; so that, in point of fact, an amendment is equally effectual, and is often used to defeat a proposition, as well as to promote the object which the mover of that proposition has in view."

Considering this general principle authorizing amendments, considering also the rigid strictness of parliamentary law in relation to amendments which, in England, could be proposed, to money bills by the House of Lords, there is no escape from the conclusion that the framers of the Constitution intended a rule different from the English rule in relation to amendment of bills for raising revenue, when they provided that "the Senate may propose, or concur with, amendments as on other bills." What other meaning can be assigned to this provision, in light of the then existing and well-known parliamentary law of England, than that it was intended to give the Senate a power to amend such bills not possessed by the House of Lords? The Lords could not amend revenue bills as they could other bills, but were confined to mere *formal amendments, not changing the sense;* but the Constitution prescribes a different rule, and subjects such bills to the same latitude of amendment to which other bills, in the ordinary course of legislation, are subjected; that is, to amendment as the Senate may deem expedient.

In opposition to this conclusion it has been urged that to permit the Senate to ingraft, by way of amendment, a general tariff bill upon a bill of the House laying a duty on pea-nuts, is entirely to disregard the spirit of the clause of the Constitution before quoted. In reply it may be said, however, that any other construction of this constitutional provision would deny to the Senate the power to amend a House bill laying a duty upon pea-nuts so as to lay a duty upon English walnuts; that is, would deny to the Senate the power of making to the bill anything more than mere formal amendments. What, then, was the object intended to be secured by this provision of the Constitution?

There is reason to believe that the authors of the Constitution anticipated a continuous session of the Senate. Colonel Mason, speaking of this provision of the Constitution, in the Virginia convention, said:

"If the Senate can originate, they will in the recess of the legislative sessions, hatch their mischievous projects for their own purposes, and have their money bills cut and dried (to use a common phrase), for the meeting of the House of Representatives. (Elliot's Debates, vol. 5, p. 415.)

That the continuous session of the Senate was anticipated may also be inferred from the absence of any provision of the Constitution to remove officers of the United States in the recess of the Senate. As it was expected that the Senate would generally be in session, removals could easily be effected by nomination of a successor. Consequently the only provision in the Constitution relating to the exercise of the appointing power in the recess of the Senate is not that the President may remove from office during the recess, but that he may "fill up all vacancies that may happen during the recess of the Senate;" this being regarded as sufficient provision upon this subject for an occasional brief recess of the Senate.

The object, then, of this provision was to prevent the Senate from maturing plans for raising revenue in the recess of the legislative sessions, and to commit the power to originate such measures to the immediate representatives of the people. Unless the House of Representatives move in the matter of raising revenue the Senate is commanded to be silent on the subject. But when the House of Representatives, by sending us a bill for raising revenue, present the subject for our consideration, the power of the two Houses is commensurate. If the House propose to levy a tax upon tea, the Senate may amend the bill by adding coffee, or by strking out tea and substituting coffee, or any other article or articles. In other words, a bill from the House is necessary to give the Senate any jurisdiction over the subject of raising revenue; but when such bill is received from the House, the Senate may amend it in any respect or to any extent; or, to quote the Constitution, to such a bill the Senate may "propose or concur with amendments, as on other bills."

But it is evident that the Senate can not propose an amendment raising revenue to any bill coming from the House except a bill for raising revenue. For instance, if the House should send us a bill granting lands in aid of a railroad company, the Senate could not put upon it an amendment for raising revenue, because in such case the bill, so far as it was a bill for raising revenue, would be originated in the Senate, which the Constitution forbids. This brings us to inquire whether the House bill, abolishing all duties upon tea and coffee, was a bill "for raising revenue" within the meaning of the Constitution.

In the British Parliament, as we have seen, the House of Lords is precluded from originating what are called money bills; and this is understood to include, not only bills for raising revenue, but all general appropriations supplying to the government the means of administration. The clause of the Constitution under consideration was carefully considered and is expressed in plain and guarded language: "All bills for raising revenue shall originate in the House of Representatives." The whole subject having been fully considered, it must be assumed that when the provisions only forbade the Senate to originate bills for raising revenue, it was not intended to restrict the Senate in regard to appropriations bills, which are of a different character and have a different end in view. The language of the Constitution is not that all bills "affecting revenue shall originate in the House, but that all bills "for raising revenue" shall so originate. What, then, is the meaning of the phrase, "all bills for raising revenue?" What is a bill for raising revenue?

The Constitution provides that Congress sball have power "to raise and support armies." In parliamentary language, it is common to say a committee was raised for a certain purpose. In these instances it is evident that "raising" is not used in the sense of increasing. Under the provision of the Constitution empowering Congress to raise armies, it may diminish as well as increase the Army. To raise an army is to establish or create an army; so a bill for raising revenue may be a bill to increase or diminish existing rates. Suppose the existing law lays a duty of 50 per cent upon iron. A bill repealing such law, and providing that after a certain day the duty upon iron shall be only 40 per cent, is still a bill for raising revenue, because that is the end in contemplation. Less revenue will be raised than under the former law; still, it is intended to raise revenue, and such a bill could not constitutionally originate in the Senate, nor could such provisions be ingrafted, by way of amendment, in the Senate, upon any House bill which did not provide for raising, that is collecting, revenue.

This bill did not provide that the duty on tea and coffee should be laid at a less rate than formerly, but it provided, simply, that hereafter no revenue whatever should raised or collected upon and and coffee. To say that a bill which provides that no revenue shall be raised is a bill "for raising revenue," is simply a contradiction of terms. Had the bill merely reduced the rates of duty upon these articles, or had it abolished the duty on these articles and laid a duty upon other articles, at a rate higher or lower than that provided by existing laws, it would have been a bill "for raising revenue," because revenue would be raised, or collected, under the provisions of the bill. But this bill proposed no such thing. It did not provide for raising any revenue; and it is therefore incorrect to call it a bill "for raising revenue."

To say that a bill which does not provide for raising any revenue must originate in the House, because its operation may affect the revenue, is not only to say what the Constitution does not say, but is to strip the Senate of jurisdiction it is conceded to possess, and which it has exercised at every session of Congress since the Constitution was adopted. A bill creating an office and fixing the salary of the officer affects the Treasury to the extent of such salary, but is not a bill for raising revenue. A thousand illustrations will occur to every mind.

Two subjects were in the contemplation of the framers of the Constitution. One was how to raise revenue, and the other how to apply it to the uses of the Government. The power to do both was confided to Congress. The power to raise revenue was regulated, as between the two houses, by the provision "all bills for raising

revenue" shall originate in the House of Representatives. The power of applying the revenue to the uses of the Government is not regulated as between the two Houses, but is controlled only by the seventh clause of the ninth section of Article I of the Constitution, as follows:

"No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

How the law making appropriations shall be passed, or in which House it shall originate, is not provided for by the Constitution.

The fact that the Constitution so carefully provides that "bills for raising revenue" shall originate in the House of Representatives, and made no such provision in regard to bills appropriating money, is conclusive that it was intended to restrict the Senate in one case and not in the other.

Your committee are therefore of opinion that the House bill under consideration was not a bill for raising revenue within the meaning of the Constitution; and, therefore, while the Senate might have amended it so as to abolish duties altogether upon other articles, the Senate had no right to ingraft upon it, as it did in substance, an amendment providing that revenue should be collected upon other articles, though at a less rate than previously fixed by law. That amendment would have become a provision in the act for raising revenue because revenue at a certain rate would have been collected by the operation of the act.

It is due, however, to the Senate to say that its departure from the true principle in this case was owing to a desire to conform to the views of the House of Representatives, as expressed by the House, in relation to the Senate bill abolishing the tax upon incomes, and thus to preserve harmony between the two houses. But since the House of Representatives, exalting its prerogative, asserts upon one occasion what it denies upon another, it has become necessary to review the question in the light of principle, and seek for a solution of the difficulty in conformity with the Constitution; to which, it is hoped, the House will assent, and to which it is *the* duty of the Senate to adhere whether the House shall assent or dissent.

Your committee recommend that the Senate adopt the following resolution:

Resolved, That the Secretary of the Senate be, and he hereby is, directed to deliver a copy of this report to the House of Representatives.

2d sess., 46th Cong., J. of S., 167.] JANUARY, 29, 1880.

Mr. Jones, of Florida, from the Committee on Public Buildings and Grounds, reported a bill (S. 1157) authorizing the Secretary of the Treasury to purchase additional lots of ground adjoining the new building for the Bureau of Engraving and Printing; which was read a first and second times by unanimous consent.

[Mar. 1, 1880, it was considered by unanimous consent and passed. (Ib. 287). In the House the bill was referred to the Committee on Public Buildings and Grounds Mar. 5 (2d sess., 46th Cong., J. of H., 690). Mr. Cook, from that committee, reported it Mar. 11, and moved that it be referred to the Committee on Appropriations. After debate, Mr. Atkins raised the point of order that the Senate had no right to originate such a bill and moved to refer the matter to the Committee on the Judiciary for examination and report. This was agreed to. (Ib., 759.)]

3d sess., 46th Cong., J. of H. 309.] FEBRUARY 2, 1881.

Mr. Knott, as a privileged question, from the Committee on the Judiciary, to which was referred the bill of the Senate (S. 1157) authorizing the Secretary of the Treasury to purchase additional lots of ground adjoining the new building for the Bureau of Engraving and Printing, with instructions to inquire as to the right of the Senate to originate such a bill, the same being an appropriation bill, submitted a report (No. 147) in writing thereon, together with the views of the minority thereon.

Ordered, That said bill and report, together with the said report and views of the minority thereon, be printed and recommitted to the said committee.

3d sess. 46th Cong., Report No. 147.]

FEBRUARY 2, 1881.—Recommitted to the Committee on the Judiciary and ordered to be printed.

Mr. Knott, from the Committee on the Judiciary, submitted the following report:

The House having referred to the Committee on the Judiciary the bill (S. 1157) entitled "An act authorizing the Secretary of the Treasury to purchase additional lots of ground adjoining the new building for the Bureau of Engraving and Printing," with instructions to inquire into the right of the Senate under the Constitution to originate bills making appropriations of money belonging to the Treasury of the United States, and said committee having considered the same, beg leave to submit the following report:

The principal, if not the only, question submitted to your committee in this instance is, whether the Senate has the power to originate bills for the appropriation of money, and its correct solution depends solely upon the proper construction of the first clause of the seventh section of the first article of the Constitution, which contains the only restriction to be found anywhere upon the authority of that body to originate bills of any kind or description whatever.

That clause provides that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills." And if the words in which it is expressed are to be taken in their ordinary acceptation, as required by the primary canon of legal interpretation, it is difficult to conceive how there could possibly be two opinions as to the idea they were intended to convey, for certainly the distinction between raising revenue and disposing of it after it has been raised is sufficiently obvious to be understood by even the commonest capacity.

It is true, nevertheless, that from the time the Constitution was framed to the present there has been an impression, more or less general, that this clause has a much broader signification than its terms imply. There have been many, indeed, whose utterances have usually received the most respectful consideration, and among them some who figured conspicuously in the framing and ratification of that instrument, who seem to have regarded the expression "bills for raising revenue," as here employed, as synonymous with the term "money bills," which at the time of the adoption of our Constitution had become quite familiar in the parliamentary language of the mother country. Mr. Madison was evidently of that impression when he referred to "the equal authority that would subsist between the two Houses on all legislative subjects except in originating *money bills*" (Federalist, No. LVIII), as was Mr. Grayson, of Virginia, when he denounced the provision in the clause just quoted, which authorizes the Senate "to propose or concur with amendments as on other bills" as "a departure from that great principle which required that the immediate representatives of the people only should interfere with *money bills* (Elliot's Debates, vol. 1, p. 375). James Wilson, of Pennsylvania, a member of the convention which framed the Constitution, and subsequently one of the associate justices of the Supreme Court of the United States, in one of his lectures on law, delivered in Philadelphia in 1790–'91, says: "By the Constitution of the United States *money bills*: originate in the House of Representatives" (1 Wilson's Works, 445); and in another, speaking of the Constitutions of the United States and of Pennsylvania, he says:

"They have on this head adopted the parliamentary law of England in part; but they have not adopted it altogether. They have directed that all money bills shall originate in the House of Representatives, but they have also directed that the Senate may propose amendments in these as in other bills." (2 Wilson's Works, 161.)

Mr. Webster, in the debate which took place in the Senate on Mr. Clay's celebrated compromise tariff bill, in 1833, said:

"If it was a *money bill*, it belonged to the House of Representatives to originate it. * * * The constitutional provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the Constitution, with the modification that the Senate might alter or amend *money bills*, which was denied by the House of Commons to that of the Lords." (Cong. Debates, 1832–'33, Vol. IX, p. 722.)

And Mr. Justice Story, in his Commentaries on the Constitution, published about the same time, after quoting the clause under discussion, says:

"This provision, so far as it regards the right to originate what are technically called *money bills*, is, beyond all question, borrowed from the British House of Commons." (1 Story Const., § 874.)

He seems, indeed, to have had a decided preference for the term "money bills," as he repeatedly employs it in his subsequent comments on the same provision as a substitute for the phrase used in the Constitution, which, taken according to its natural and obvious import, could give rise to neither doubt nor confusion.

Citations from the speeches and writings of other distinguished statesmen and jurists similar to those already adduced might be multiplied almost indefinitely, and it is probable that the frequent use of the term "money bills" by such persons, as the equivalent of the expression employed in the Constitution, may have created the impression which seems to prevail with many that the latter embraces every variety and description of bills affecting the revenue, whether for the purpose of raising it by taxation or disposing of it by appropriation. It should be observed, however, that there is, and long has been, a wide difference of opinion as to what is embraced in the definition of the term "money bills," even as employed in English parlimentary practice.

Mr. Homersham Cox, in his work on the Institutions of the English Government (p. 198), defines "money bills" to be tax bills, bills of supply, and bills for the appropriation of supplies, and his definition has been approved and adopted by Mr. Todd in his treatise on the Parliamentary Government of England (p. 525). Bou-

vier, in his Law Dictionary, defines them as "bills or projects of laws providing for raising revenue, and for making grants or appropriations of the public treasure;" and Mr. Cushing, in his work on the Law and Practice of Parliamentary Assemblies, speaks of them as "those which grant a supply or make an appropriation of money" (§ 2369), and says, in another place, that "the term 'money bills,' as used in the constitutions of New Hampshire and Massachusetts, is broad enough to include both the raising and the appropriation of money" (§ 2304). Mr. Seward was also of a similar opinion. In his remarks in the Senate, in 1856, on Mr. Hunter's resolution to instruct the Committee on Finance to prepare and report such of the general appropriation bills as they might deem proper, he said:

"By money bills were understood, as now understood in Great Britain, equally bills for raising money and bills for the paying moneys for the support of the Government. Here in modern times we have come to a distinction between bills for raising moneys and bills for appropriating money or appropriating revenue; but in the British system the principle prevailed then, as it yet prevails, that the House of Commons, regarded as the representatives of the people, had the exclusive power of originating bills for the raising and for the expenditure of revenue. It was this power which carried the Commons of Great Britain through that revolution in which they saved the cause of national liberty and of constitutional freedom when it was in danger of being overborne by the influence and power of the executive and of the House of Lords." (Cong. Globe, 1st sess. 34th Cong., p. 376.)

Mr. Story, from one section in his work on the Constitution, seems to incline to the same opinion, although another section on the same subject and in the same volume leaves an entirely different inference. Speaking of the power vested in the Senate to propose amendments to bills for raising revenue, which has always been stubbornly denied to the British House of Lords, he says:

"There would be no small inconvenience in excluding the Senate from the exercise of this power of amendment and alteration, since, if any, the slightest modification were required in such a bill to make it either palatable or just, the Senate would be compelled to reject it, although an amendment of a single line might make it entirely acceptable to both houses. Such a practical obstruction to the legislation of a free government would far outweigh any supposed theoretical advantages from the possession or exercise of an exclusive power by the House of Representatives. Infinite perplexities, misunderstandings, and delays would clog the most wholesome legislation. *Even the annual appropriation bills might be in danger of miscarriage on these accounts*, and the most painful dissensions might ensue" (§ 877).

On the other hand, Sir William Blackstone, whose commentaries were published ten years before the Declaration of Independence, and were perhaps more extensively read in America than in England at the time of the adoption of our Constitution, pretermits all mention whatever of appropriations in his definition of money bills. He says:

"First, with regard to taxes, it is the ancient indisputable privilege and right of the House of Commons that all grants of subsidies or parliamentary aids do begin in their house, and are first bestowed by them; although their grants are not effectual, to all intents and purposes, until they have the assent of the other two branches of the legislature. The general reason given for this exclusive privilege of the House of Commons is that the supplies are raised upon the body of the people, and therefore it is proper that they alone should have the right of taxing themselves. This reason would be unanswerable if the Commons taxed none but themselves; but it is notorious that a very large share of property is in the possession of the House of Lords; that this property is equally taxable and taxed as the property of the Commons; and therefore the Commons, not being the *sole* persons taxed, this can not be the reason of their having the *sole* right of raising and modeling the supply. The true reason, arising from the spirit of our constitution, seems to be this: The Lords being a permanent, hereditary body, created at pleasure by the King, are supposed more liable to be influenced by the Crown, and when once influenced to continue so, than the Commons, who are a temporary, elective body, freely nominated by the people. It would therefore be extremely dangerous to give the Lords any power of framing new taxes for the subject; it is sufficient that they have a power of rejecting, if they think the Commons too lavish or improvident in their grants. But so unreasonably jealous are the Commons of this valuable privilege, that herein they will not suffer the other house to exert any power but that of rejecting; they will not permit the least alteration or amendment to be made by the Lords to the mode of taxing the people by a money bill, under which appellation are included all bills by which money is directed to be raised upon the subject, for any purpose or in any shape whatsoever, either for the exigencies of the Government, and collected from the Kingdom in general, as the land tax or for private benefit, and collected in any particular district, as by turnpikes, parish rates, and the like." (Blackstone's Commentaries, book 1, chap. 2, pp. 168, 169.)

And Sir Thomas Erskine May, although he offers no definition of the term "money

bills," referring to a bill introduced in the House of Lords in 1860, for the repeal of the duty on paper, says:

"Nor was this strictly and in technical form a money bill. It neither granted a tax to the Crown nor recited that the paper duty was repealed in consideration of other taxes imposed." (1 May's Const. Hist., 448.)

From which it has been inferred that in his opinion that term refers alone to bills for raising revenue, notwithstanding he says in another place that—

"The Lords have no voice in questions of expenditures save that of a formal assent to the appropriation acts. They are excluded from it by the spirit and forms of the constitution." (Ibid., 444.)

A similar inference as to the opinion of Judge Cooley may perhaps be drawn from a paragraph in his admirable work on constitutional limitations. Speaking of the equal dignity and powers of the two houses of a legislative assembly, he says:

"This is the general rule; but as one body is more numerous than the other and more directly represents the people, and in many of the States is renewed more often by elections, the power to originate money bills, or bills for raising revenue, is left exclusively by the constitutions of some of the States with this body, in accordance with the custom in England, which does not permit bills of this character to originate with the House of Lords." (Cooley's Const. Limitations, 130.)

The whole subject has, however, been recently reviewed by the supreme court of Massachusetts in an elaborate opinion by Chief Justice Gray, concurred in by the entire bench, and remarkable for the extraordinary learning and labor exhibited in its preparation. In pursuance of a provision in the constitution of that Commonwealth, authorizing such a procedure, the legislature of Massachusetts, in April, 1878, submitted to the supreme judicial court for its opinion substantially the following question: "Whether a bill appropriating money from the public treasury, and not providing for the levying of such money on the people by tax or otherwise, is a money bill which must originate in the house of representatives under the provisions of chapter 1, section 3, article 7 of the State constitution, which declares that 'all money bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.'" To this the court, after the most careful and laborious examination of every available source of information, returned the following answer:

"First. The senate can, under the provisions of chapter 1, section 3, article 7 of the constitution, originate a bill or resolve appropriating money from the treasury of the Commonwealth.

"Second. The senate can, under these provisions, originate a bill or resolve involving directly or indirectly the expenditure of money from the treasury, or imposing a burden or charge thereon.

"Third. That the power to originate a bill appropriating money from the State treasury is not limited by the constitution to the house of representatives, but resides in both branches of the legislature." (126 Mass. Rep., supplement, pp. 557–602.)

Whatever may be the true scope of the term "money bills," however, as employed in British parliamentary practice, and understood at the time of the adoption of our Constitution, it can not be denied that for a long period of time the Commons of England had asserted and maintained their exclusive privilege of originating all acts for the appropriating and expenditure of the public money with the same vigilance and pertinacity with which they had claimed the sole right to originate bills for raising it. They would brook no interference on the part of the Lords with either. As far back as 1678 they resolved:

"That all aids and supplies ought to begin with the Commons, and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords. (May's Parliamentary Practice, pages 506, 507.)"

And in 1691, when the Lords had amended a bill for appointing commissioners to state the public accounts, they promptly rejected the amendments, declaring that "The disposition as well as the granting of money by act of Parliament hath ever been in the House of Commons; and these amendments relating to this disposal of money to the commissioners added by the amendments do intrench upon that right." And again in 1702, the Lords having amended a bill for the encouragement of privateers, the Commons disagreed to the amendments because they "altered several duties granted to the Crown, and likewise disposed of several sums of money arising therefrom, and other public moneys, for that the allowing of duties and the granting and disposing of all public moneys is the undoubted right of the Commons alone, and an essential part of their constitution." (3 Hatsell, pp. 124, 132, and appendix 11.) So jealous, indeed, were they of this privilege that they rejected an amendment proposed by the Lords substituting lead for copper in a bill for covering the cupola of St. Paul's; averring as their reason "that the money for building the said cathedral

was granted by the Commons, and therefore the application thereof belonged to them." (3 Hatsell, 132.)

It should be observed, moreover, that for more than a century before the adoption of our Constitution, it had been the practice of the English Parliament, as it has been ever since, to embrace the provisions for raising revenue and for appropriating it in the same bill; and perhaps a want of proper attention to the mode of procedure in that regard may have led to the apparent discrepancies of opinion in relation to the nature of "money bills," already noticed. A brief outline of the method of proceeding in Parliament in relation to the raising and expenditure of money for the uses of the Government may, therefore, be somewhat useful here in elucidating the point under consideration.

For reasons into which it is unnecessary for the purposes of this report to inquire, bills for granting supplies to the Government, as well as those providing the methods for raising them, could only originate in the House of Commons, which, as said by Sir William Blackstone, has always been so "unreasonably jealous" of its privilege in that particular that it has never permitted the other house—at least for centuries past—to make the slightest alteration therein, limiting the Lords to the naked alternative of accepting or rejecting them.

Prior to 1667, propositions for granting aids and supplies to the Crown were frequently referred to select committees, and the money when raised was as often diverted to other purposes than those for which it was voted. In pursuance of a standing order made during that year, however, and which has remained substantially the same to the present time, the house, at the beginning of each Parliament, constitutes itself into what is known as "The committee of supply," to consider the amounts of money to be voted for the uses of the Government for the current year, and to which are referred all demands for the public service which are laid before the house by direction of the Crown.

When the committee of supply has reported, and the report has been agreed to by the house, a day is appointed for the house to resolve itself into a committee "to consider of ways and means for raising the supply granted," or, as it is familiarly styled, "The committee of ways and means." The business of this committee, as its title implies, is to determine the modes of raising the money which the house (upon the resolution reported by "the committee of supply" and agreed to) has granted to the Crown, being limited by rule to the amount thus granted. The "committee of ways and means," therefore, proceeds to determine and report to the house the various methods by which the amount determined upon shall be raised, whether by loan or tax, and by what descriptions and rates of taxation.

When the committees of supply and ways and means have finished their sittings, the house passes a bill known as the consolidated fund bill, or more generally as the appropriation bill, in which the several grants made on recommendation of the committee of ways and means by land tax, paper tax, malt tax, etc., are recapitulated, and directed to be applied to those services which have been voted during the session in the committee of supply, specifying the particular sums granted for each service and appropriating the money that shall be paid into the exchequer for their discharge; and directing that said supplies shall not be applied to any other than the purposes mentioned in the bill. By this act, which completes the financial proceedings of the session, the supply votes originally passed by the Commons only, receive full legislative sanction. (3 Hatsell, 192–200; 1 Todd's Parl. Govt., 525, 526; Cox's Insts. English Govt., 199; May's Parl. Practice, 538.)

Prior to the Restoration it had not been the practice to make specific appropriations of supplies to the purposes for which they were granted, although it was done in some instances as early as the reigns of Edward III and Richard II. The extravagances of Charles II, however, and the various pretexts used by that dissolute monarch for obtaining supplies for extraordinary services, which, when secured, were immediately squandered in defraying the expenses of a licentious court, suggested the necessity of some such expedient in order to secure to the public use the money granted and raised for that purpose. But the idea thus originally conceived as a mere restriction upon those who had the management of the public revenue was at the Revolution made a part of the system of government then established for better securing the rights, liberties, and privileges of the English people; and since that era all grants made by the Commons for the service of the Government for the current year have been strictly applied and appropriated to specific purposes for which they were intended in the acts of Parliament which have carried these grants into effect, and heavy penalties have been denounced by law upon officers of the exchequer and others who should divert or misapply the moneys thus levied and appropriated to any other purpose than those for which they were granted. (3 Hatsell, 202–206; Cox Inst. Eng. Govt., 200; 1 Todd's Parl. Govt., 526-529.)

It appears from the foregoing that according to English parliamentary practice, as it existed at the time of the formation of our Constitution and still prevails, the appropriation of the public revenue was a mere incident to measures by which it

was granted to the Crown and brought into the exchequer; that the House of Commons claimed and maintained the exclusive right to determine the amount to be raised, the methods by which it should be raised, the services to which it should be appropriated, and the manner in which it should be expended; that these several features were usually incorporated and received legislative sanction in the same act; and that they would countenance no interference with either of them by the other house on any pretense or for any purpose whatever.

Assuming, therefore, that the framers of the Constitution were familiar with the practice of the British Parliament in this regard, as well as with the principles upon which it was founded, and that they had it in immediate view when the provision under discussion was adopted, as the most cursory examination of the debates and proceedings in relation to it will show to be true, the question recurs as to the extent to which they intended to incorporate it in our own system of Federal legislation; and if that intention were to be gathered alone from the simple and unambiguous language in which they chose to express it, there would be, as has already been intimated, but little if any difficulty involved in the inquiry, for the unlimited power of alteration and amendment vested in the Senate certainly deprives the House of the exclusive privilege of determining either the amount of revenue to be raised or the methods by which it is to be provided; and if they had intended to secure to the house the sole right to originate appropriation bills, for which the Commons had contended with their characteristic pertinacity for more than two centuries, it is but reasonable to suppose that they would have done so in perfectly plain and unequivocal terms.

It has been claimed, however, that questions of constitutional construction are in a great degree historical, and not to be determined by a mere interpretation of the language employed in the instrument. A brief review of the proceedings of the convention which resulted in the adoption of the provision under consideration may therefore be somewhat serviceable in elucidating its meaning.

On the 29th of May, 1787, two propositions in relation to the matter were presented to the convention: One by Edmund Randolph, of Virginia, "that each branch of the legislature ought to possess the right of originating bills;" and the other by Charles Pinckney, of South Carolina, that "all money bills shall originate in the house of delegates, and shall not be altered by the senate." (4 Elliot's Debates, pp. 41, 44; The Madison Papers, pp. 732, 787.) Conceding the term "money bills" to include those making appropriations as well as those for raising revenue, this covered the entire scope of the privilege, with respect to such matters, which was claimed by the English House of Commons.

On the 31st of the same month the proposition of Mr. Randolph was agreed to in Committee of the Whole unanimously without debate (The Madison Papers, 759), and on the 13th of June Mr. Gerry, of Massachusetts, seconded by Mr. Pinckney, of South Carolina, moved to amend it by adding the words "excepting money bills, which shall originate in the first branch of the national legislature." The amendment was opposed by Mr. Madison, Mr. Butler, Mr. Sherman, and General Pinckney, and was finally voted voted down, three States voting for, and seven, including Massachusetts and South Carolina, against it (4 Elliot's Debates, 69; Madison Papers, 857–858), and on the 19th of June it was reported to the House from the Committee of the Whole, and on the 26th following it passed unanimously. (Madison Papers, 973.)

The question of representation in the two branches of Congress having come up for consideration, a committee consisting of one member from each State was selected by ballot on the 2d of July, with Mr. Gerry from Massachusetts at its head, to consider the resolutions relating to that subject, and on the 5th of July that committee reported to the convention the following propositions:

"1. That, in the first branch of the legislature, each of the States now in the Union be allowed one member for every forty thousand inhabitants of the description reported in the seventh resolution of the committee of the whole house; that each State not containing that number shall be allowed one member; that all bills for raising or appropriating money, and for fixing the salaries of the officers of the Government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch.

"2. That, in the second branch of the legislature, each State shall have an equal vote (Madison Papers, 1024.)"

This report gave rise, it seems, to considerable discussion, and finally, on the question as to whether the clause relating to money bills should stand as part of the report, the vote stood five States in the affirmative, three in the negative, and three divided. (Ib., 1045.) The first part of the proposition had been previously referred to a select committee.

On the 16th of July that committee submitted a report embodying the whole sub-

ject of representation and money bills, fixing the number of Representatives, providing that representation ought to be proportioned to direct taxation, giving each State an equal representation in the Senate, and containing the following provision:

"That all bills for raising or appropriating money, and for fixing the salaries of the officers of the Government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch."

Which was agreed to as a whole, five States voting in the affirmative, four in the negative and one divided. (Ib. 1107.)

On the 26th of July all the propositions previously adopted were referred to the committee on detail, which, on the 6th of August, reported a draft of a constitution in which the resolution just quoted appeared as section 5, article 4 (Ib., 1228); which, on motion of Mr. Pinckney, was stricken out on the 8th by a vote of seven States against four. (Ib., 1268.) This vote was reconsidered, however, on motion of Mr. Randolph, who, on the 13th of August, moved to amend the clause so that it would read:

"Bills for raising money for the purpose of revenue, and for appropriating the same, shall originate in the House of Representatives; and shall not be so amended or altered by the Senate as to increase or diminish the sum to be raised or change the mode of levying it, or the object of its appropriation. (Ib., 1305, 1306.)"

It will be observed that this was in exact accordance with the practice in the English Parliament, and covered the entire ground of privilege in that regard which was claimed by the House of Commons. The question on this proposition being divided, the vote stood on the exclusive origination of money bills in the House, ayes 4, noes 7; on excluding the Senate from the right to alter or amend, ayes 4, noes 7; and on the exclusive origination of appropriation bills in the House, ayes 1, noes 10. (Ib., 1316.)

On the 15th of August Mr. Strong moved to amend section 12, article 6, so as to read:

"Each House shall possess the right of originating all bills except bills for raising money for the purposes of revenue, or for appropriating the same, and for fixing the salaries of the officers of the Government, which shall originate in the House of Representatives; but the Senate may propose or concur with amendments as in other cases."

The consideration of that article was, however, postponed, and on the 5th of September the committee reported a substitute for the section in the following words:

"All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate; no money shall be drawn from the Treasury but in consequence of appropriations made by law."

This proposition was taken up on the 8th, and the first member of the clause, "All bills for raising revenue shall originate in the House of Representatives," was agreed to by a vote of nine ayes to two noes. It was then moved to strike out the second branch, and insert the words used in the constitution of Massachusetts," "but the Senate may propose or concur with amendments as in other bills," which was agreed to *nemine contradicente*, and the provision as thus amended became the first clause of the seventh section of the first article of the Constitution as it now stands, while the last clause, "no money shall be drawn from the treasury but in consequence of appropriations made by law," was transferred to the ninth section of the same article. (The Madison Papers, 1330, 1494, 1530.)

From this brief summary it will be seen that the proposition was more than once presented to the convention to vest in the House of Pepresentatives the exclusive privilege of originating "all money bills" *eo nomine*, which was as often rejected. It would seem obvious, therefore, that the framers of the Constitution did not intend that the expression "bills for raising revenue," as employed by them, should be taken as the equivalent of that term as it was understood in English parliamentary practice; for, if they had so intended, they would surely have used that term itself, which had already received a fixed and definite signification from long and familiar usage, instead of the one they chose to employ.

But it may be said that they declined to use the term "money bill" because, as was argued by some in the convention, it was an indefinite expression, which might give rise to doubt, discussion, and difficulty, especially as to whether it was sufficiently comprehensive to embrace the appropriation as well as the raising of revenue. This, however, would place the matter in no clearer light, for, as has been shown, the proposition was made in the plainest and most unequivocal language to confer upon the House of Representatives the exclusive privilege of originating all bills for appropriating money, which was also rejected.

Nor will it do to say that this was done under any misapprehension or from any want of proper deliberation. No provision in the entire Constitution was more elab-

orately discussed or more carefully considered. The policy of investing the House of Representatives with the exclusive privileges exercised by the English House of Commons in relation to "money bills" was persistently and ably urged by such distinguished and patriotic statesmen as George Mason, Elbridge Gerry, and Benjamin Franklin; and the impropriety of making any discrimination whatever between the two houses as to their power to originate any bills was as forcibly presented by Madison, Gouverneur Morris, Oliver Ellsworth, James Wilson, and Roger Sherman. To say that the illustrious men who composed the Federal Convention were incapable of declaring in clear and unmistakable language that the House of Representatives should have the sole right to originate appropriation bills, if such had been their intention, would be an insult to their intelligence, which, in view of the precise and perspicuous terms used in the resolution reported by Mr. Gerry, the substitute offered by Mr. Randolph, and the amendment proposed by Mr. Strong, could only stultify the person who might hazard such an insinuation; and it would be no less an imputation upon their integrity and candor, as well as a gross abuse of construction, to suppose that they intended to be understood as meaning precisely what they repeatedly refused to say in plain words, especially when such a meaning can not be inferred by any possibility from the language they actually employed, if that language is taken according to its natural and ordinary import.

It is true that in 1856 Mr. Seward, Mr. Sumner, and Mr. Wilson opposed the origination of certain general appropriation bills by the Senate, upon the grounds that although the exercise of such a power was within the letter it would be contrary to the spirit of the Constitution, and a departure from usage; but in the judgment of your committee neither of those positions was tenable. That it was never the intention of the framers of the Constitution to withhold the power of originating such bills from the Senate, they think has already been shown both from the language used in that instrument and the circumstances under which that language was employed; and surely if the Senate was ever invested with that power by the Constitution, it can not be said to have lost it by nonuse. Fortunately for us, that is not the way in which our constitutional provisions are changed, nor can they be altered by mere parliamentary practice. They must remain in the plain words in which they are written until amended by the concurrent vote of two-thirds of each branch of Congress and the legislatures of three-fourths of all the States in the Union, and while they remain they must be construed according to the simple and well settled rules of interpretation applicable to all other written language.

It is true, moreover, that the general appropriation bills which originated in the Senate in 1856 were laid on the table by the House; but that circumstance proves nothing to the purpose of this inquiry, for it will be seen by reference to the recorded history of that transaction that the reason assigned for that disposition of them was not that the Senate had no constitutional right to originate them, but the fact that similar bills had already passed the House and been concurred in by the other branch of Congress. On the contrary, if the mere practice of the two Houses or of either of them can be said to effect in any way a clear constitutional principle, instances in which the House has passed, without objection, appropriation bills which have originated in the Senate, might be adduced in sufficient numbers to fill a volume.

With the policy of such a provision your committee has nothing to do. That was a matter to be considered and determined by the convention which framed the Constitution and the States which ratified it. And whether they acted wisely or unwisely in that regard can not alter the fact that there is nothing in the language of the Constitution to indicate an intention on their part to withhold from the Senate the power to originate bills for the appropriation of money, or that they repeatedly rejected a proposition to confine that privilege to the House of Representatives, although presented in the most emphatic and unequivocal terms. Believing, therefore, from the plain letter of the Constitution, as well as from all the circumstances surrounding the adoption of the provision in question, that the Senate had the clear right to originate the bill, they report it back to the House, with the recommendation that it be referred to the Committee on Appropriations, and that the following resolution be adopted:

Resolved, That the Senate had the constitutional power to originate the bill referred, and that the power to originate bills appropriating money from the Treasury of the United States is not exclusive in the House of Representatives.

VIEWS OF THE MINORITY.

Mr. Hurd submitted the following views of the minority:

The minority of the Committee on the Judiciary, to whom was referred Senate bill 1157, present the following views:

The question presented by the reference of these bills to this committee is, Has the Senate the right to originate bills appropriating money from the Treasury of the United States? It is conceded that all bills may originate in the Senate as well as

in the House, except the bills referred to in section 7 of article 1 of the Constitution, which provides that "all bills for raising revenue shall originate in the House of Representatives."

The decision of the question above stated depends, therefore, upon the determination of the further one, Are bills appropriating money bills for raising revenue? For, if they be, they can originate in the House of Representatives only. We shall, therefore, address ourselves at once to the consideration of this question, and endeavor to establish that bills appropriating public money are bills for raising revenue.

First. This appears from the original and approved meaning of the term revenue. At the beginning it is well to understand the precise signification of the terms we shall employ in this discussion. An appropriation bill is one which sets aside for specific public use money which has been collected by the authority of the Government. A bill *raising* revenue is one which makes or creates revenue. Revenue is the annual income of a State derived from taxation, customs, excises, and other sources, and appropriated to the payment of the national expenses.

This definition is approved by many of the best authorities, and is not inconsistent with that given by any.

Webster defines revenue to be "the annual produce of taxes which a nation or State collects and receives into the treasury for public use."

The mere collection and receiving into the public treasury, by this definition, are not sufficient, but it must be such collection and receiving as are for the public use. It is, therefore, that money only, collected and received into the treasury, which has been made available for the public use which constitutes the revenue for the State; for unless the public can use it it is not revenue.

Worcester defines revenue to be "the income of a nation or State derived from duties, taxes, and other sources for the payment of the national expenses." The same criticism which has been made upon the definition of Webster may be made here, but what is more significant in determining the sense intended here to be given to the word is found in the reference in Worcester to Brande's Dictionary of Science and Art as authority, than which there is none higher in the language.

Brande defines revenue to be "the name given to the incomes of a State derived from the customs, excises, taxation, and other sources, and appropriated to the payment of the national expenses." (Brande's Dictionary, Vol. 3, p. 269.)

This definition is approved in the Imperial Dictionary, the present standard dictionary of Great Britain, in the following words: "Revenue is the annual income of a State, derived from the taxation, customs, excises, and other sources, and appropriated to the payment of the national expenses."

Nor could any other definition have been given by those who had considered the sources of the royal revenue in English history. The revenue of the Crown of England is ordinary and extraordinary; the former is attached to the Crown by hereditary right; the latter is specially granted by Parliament as a supply for national purposes. (Chambers, Vol. 8, 222.) As the ordinary revenues became less and less valuable in progress of time, those extraordinary were raised to take their place and provide for the necessary expenses of the Government. The following references will show that this revenue was the supply or subsidy voted or granted by the Commons to the King:

Chambers, Vol. 8, 222.

Constance on Constitution, 168.

May, Vol. 1, 193.

Blackstone, revised ed., Vol. 1, p. 274.

Miller's English Government, p. 27.

Money, therefore, to be revenue to the King, must have been granted to him. It is true for many years he had the privilege of spending it as he pleased, but he could not spend it until it had been granted. The levying of the tax, the collection of the taxes, was not sufficient to make it royal revenue; these were merely the preliminary steps. The essential act to constitute it revenue was the grant, without which not one dollar could have been used for the national expenses. As will be seen hereafter, the appropriation grew to be an essential part of the grant, so that at the time of the establishment of our Constitution there could have been no revenue in England for the Crown which had not been appropriated for the national expenses by the House of Commons. The term "revenue" in the Constitution must have been used in its universally accepted sense, and therefore in section 7 of article 1 bills raising revenue must include bills appropriating money to the use of Government as well as bills providing for levying and collecting taxes.

Secondly. The proceedings in the constitutional convention show very clearly that the term "revenue" was intended to be used in its ordinary sense of appropriating as well as collecting money for uses of the Government.

The first provision on this subject in that convention appeared in the plan of Mr. Charles Pinckney, as follows:

"All money bills of every kind shall originate in the house of delegates, and shall not be altered by the senate." (Madison's Papers, p. 129.)

After debate had proceeded for some time in convention it was found that great differences of opinion had arisen, which it was proposed to refer to a committee of compromise. The committee was appointed, with Mr. Gerry as chairman, who reported a recommendation to the convention, which, upon this point, contained the following provisions:

"All bills for raising or appropriating money * * * shall originate in the first branch of the legislature, and shall not be altered or amended in the second branch." (Madison's Papers, 274.)

The report was in substance adopted in convention, and provided that—

"All bills for raising or appropriating money shall originate in the first branch of the legislature, and shall not be altered or amended in the Senate." (Madison, p. 316.)

In the same phrase it was referred to the committee on detail (Madison, p. 375), who reported it back to the convention in the following form:

"Section 5, article 4. All bills for raising or appropriating money * * * * shall originate in the House of Representatives, and shall not be altered or amended in the Senate."

Upon first consideration this section was stricken out by a vote of 7 States to 4.

Afterwards it was reconsidered, and Mr. Randolph moved to amend so that it would read:

"Bills for raising money for the purpose of revenue or for appropriating the same shall originate in the House of Representatives, and shall not be amended or altered by the Senate as to increase or diminish the sum to be raised or change the mode of levying it or the object of its appropriation." (Madison, 414.)

A further amendment was proposed by Mr. Strong. (P. 427.)

"Each House shall possess the right of originating all bills except bills for raising money for the purpose of revenue and appropriating the same, which shall originate in the House of Representatives, but the Senate may propose or concur with amendments as in other cases."

The committee of eleven reported the final draft as follows:

"All bills for raising revenue shall originate in the House of Representatives and shall be subject to alteration and amendment by the Senate."

This was at last adopted with an amendment striking out the last clause and inserting, "but the Senate may propose or concur with amendments, as in other bills."

The committee of eleven, in considering and reporting the clause in its present form had before them all the propositions which had been submitted to the convention. These were "all money bills of every kind," "all bills for raising or appropriating money," and "all bills for raising money for the purpose of revenue and appropriating the same." For all of them they substituted the phrase "all bills for raising revenue." What did they intend by this change? Certainly they intended more than merely raising money, for with that phrase in so many propositions before them they could have easily adopted it if nothing more had been meant. What, then, more than merely raising money was intended? Manifestly as much more than that as may be included in the meaning of the word "revenue."

Only two theories can be maintained as to the action of the convention on this subject, either that they excluded from the power of origination by the House bills appropriating money, or that they included them in the term "bills for raising revenue." Every proposition upon the subject, in the early days of the convention, provided that bills appropriating money should be originated in the House; the bills named in the proposition were called "money bills" generically in the debates before the committee made their report; the bills provided for in the report of the committee were called "money bills" in the convention after the report had been made, clearly implying that in substance the report as made was intended to include the same propositions upon this point which had been so often before the convention and so frequently discussed. If the report had been intended to provide only that the House should originate *bills for raising money*, would it not have been easy to have said so? If the power of appropriating money which has always been so indispensable a part of money bills had been intended to be omitted, would the "bills for raising revenue" have been called "money bills" in the subsequent debates, and would not the omission have naturally occasioned some criticism and opposition in the convention on the part of those who so strenuously insisted, as Dr. Franklin put it, "that it was important that the people should know who had disposed of their money and how it had been disposed of."

The evident desire of the promoters of this proposition to have the House of Representatives originate money bills, as did the House of Commons; the persistent application of the term "money bills" to the bills referred to, both before and after the provision was adopted in its present form; the fact that every proposition included the idea of appropriating money; the silence on the part of the advocates of the proposition as to the clause as finally reported, which is inexplicable if the most im-

portant power in the origination of money bills, to wit, bills appropriating money, were to be excluded; the use of a new phrase, which means more than bills for raising money, all make it clear that when the phrase "bills for raising revenue" was employed it was intended to express the thought which was included in the words "money bills," which was set forth in every proposition presented to the convention, and which is included in the word revenue, viz, that bills appropriating money shall originate in the House as well as those which provide for its collection and receipt into the Treasury.

Right at this point we desire to say a few words as to the recent remarkable decision of the supreme court of Massachusetts.

Under the constitution of that State, a question was submitted to that court for decision, substantially as follows: "Whether a bill appropriating money from the public treasury, and not providing for the levying of such money on the people by tax or otherwise, is a money bill which must originate in the house of representatives, under the provisions of the State constitution, which declare that 'All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills'"

The court decided that "the power to originate a bill appropriating money from the public treasury is not limited by the constitution to the house of representatives, but resides in both branches of the legislature." In other words, the court held that a bill appropriating money was not a "money bill."

This decision rests upon two propositions, which we will state in the words of the court:

"The right asserted by the House of Commons in the resolution of 1678, to which we will hereafter refer, is that of granting aid and supplies to the King, and originating bills for such grants, and of specifying in such bills the object to which and the modes in which the money granted by these bills shall be applied. But nothing is there said as to the right of the Lords, when money has once been granted by the Commons without specific appropriation, to originate or amend a bill appropriating it to particular uses or purposes."

This proposition proceeds upon a total misapprehension of the power of appropriation as exercised in the British Parliament. Prior to the reign of Charles the Second, grants to the King were seldom accompanied by specific directions as to the method of expenditure. During that reign the Commons insisted that the money granted should be used for a particular purpose, and provided in express terms that it should not be used for any other purpose. In Tod's Parliamentary Government (vol. 1, 526), it is said:

"The constitutional rule that the sums granted and appropriated by the Commons for any special service should be applied by the executive power only to defray the expense of that service, although not wholly unrecognizable in earlier times, was first distinctly enunciated and partially enforced after the restoration. But it was not until the resolution of 1678 that this great principle was firmly established and incorporated into the system of parliamentary government."

The office of the appropriation clause, as it is termed in the English system, was to prevent supplies from being directed from the objects for which they were granted. This clause was annexed to the supply bill, usually at the end of the session of Parliament. The procedure was as follows: The rate of expenditure, or the ways and means, were first fixed in the tax bills; the money thus raised was granted for particular purposes in the supply bill. After all the grants had been made, a bill enumerating them and the purposes for which they had been voted was proposed, with a clause as follows:

"That the said aids and supplies shall not be issued or applied to any use, intent, or purpose other than those before mentioned."

This bill was the appropriation bill. From this it is clear that an appropriation bill is a part of the supply bill, an incident to the grant to the King. It could not, therefore, from the very nature of the case, originate anywhere else than in the House of Commons, where only the grants themselves could originate. Of course there was "nothing said as to the right of the Lords, when money has been once granted by the Commons without specific appropriation, to originate or amend a bill appropriating it to particular uses or purposes;" and for the manifest reason that the appropriation was part of the grant, and there would have been as much sense in saying that the House of Lords could originate the one as the other.

Another statement, as remarkable as the one just considered, is made further on in the opinion:

"The result of the review of this branch of the subject is that it can not be considered to have been settled in England before 1780, when the constitution of the commonwealth of Massachusetts was adopted, that the appropriation to particular objects of moneys in the treasury or exchequer of the sovereign belonged exclusively to the House of Commons, and that bills for such appropriation must originate in the House."

From what has already been said, it must appear that as soon as it was settled that there should be bills of appropriation it was also settled that they must originate in the House of Commons. This principle of appropriation was, as already stated, incorporated into the English Constitution during the reign of Charles II. It was asserted in 1678 in the following resolution of the Commons:

"That all aids and supplies, and aids to His Majesty in Parliament, are the sole gift of the Commons, and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bill the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords. (Cox, British Cons., 104.)"

On this subject May says, in vol. 2, 469, of his Parliamentary History: "For centuries they (the Commons) had resented any meddling of the other house with matters of supplies, and in the reign of Charles II. they successfully maintained their exclusive right to determine as to the matter, the measure, and the time of every tax imposed upon the people. In the same reign they began to scrutinize the public expenditure, and introduced the salutary practice of appropriating their grants to particular purposes." Mark the words, "they appropriated their grants."

In Hearn, British Government, 343, it is said:

"From that time (Dutch war of 1665) the appropriation of parliamentary supplies became an undisputed principle. It was recognized by frequent though not uniform practice during the reign of Charles and of James, and from the time of the Revolution has been invariable."

It is useless to cite further authority. The writers all concur in the statements upon this point, which show that it was settled in England for more than a century before 1780, when the constitution of the commonwealth of Massachusetts was adopted, that the public moneys should be appropriated to particular objects, and that bills making such appropriations should originate in the House of Commons.

Tod, in his work above referred to, vol. 1, p. 525, says: "Money bills are of three kinds, tax bills, bills of supply, and bills of appropriation."

We accept the definition of money bills given by this philosophical writer, whose work from which it is taken is one of the ablest and most exhaustive treatises on English parliamentary government ever written, rather than the opinion of the supreme court of Massachusetts, based as it is upon gross errors as to the nature of English appropriation bills, and as to one of the most patent facts of English history.

Thirdly. The speeches in the conventions of the different States called for the consideration of the Constitution, the writings of the friends of that instrument published, for the purpose of securing its adoption, the expressions of members of the constitutional convention, and the opinions of the ablest commentators upon the Constitution all show that the phrase "bills for raising revenue" was the equivalent of "money bills," which in the English Government at the time of the framing of our Constitution included bills of appropriation.

In Massachusetts, Mr. Parsons said:

"Under the Constitution an equal representation immediately from the people is introduced, who, by their negative and the exclusive right of originating money bills, have the power to control the Senate, where the sovereignty of the States is represented. (3 Elliott's Debates, page 108.)"

In Pennsylvania (3 Elliott's Reports, 418), Mr. Wilson said:

"Money bills must originate in the House of Representatives."

In North Carolina (4 Elliott, 144), Mr. Iredell said:

"Yet, under these disadvantages, they (the Commons) having the sole power of originating bills, it has been found that the power of the kings and lords is much less considerable than theirs. * * * If, under such circumstances, such representatives, mere shadows of representatives, by having the power of the purse and the sacred name of the people to rely upon, are an overmatch for the king and lords, who have such great hereditary qualification, we may safely conclude that our own representatives, who will be genuine representatives of the people, and having equally the right of originating money bills, will at least be a match for the Senate, possessing qualifications so inferior to those of the House of Lords in England."

Mr. Madison said, in the First Congress:

"The Constitution places the power in the House of originating money bills."

Mr. Hamilton says, in the 58th number of the Federalist:

"The House of Representatives can not only refuse, but they alone can propose, the supplies requisite for the support of the Government. They, in a word, hold the purse, that powerful instrument by which we behold in the history of the British constitution an infant and humble representative of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may in fact be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

In Tucker's Appendix to Blackstone's Com., Vol. 1, p. 215:

"The exclusive privileges of the House of Commons and of our House of Representatives, with some small variations, are the same. The first, relating to money bills, in which no amendment is permitted to be made in the House of Lords, is modified in our Constitution so as to give the Senate a concurrent right in every respect except in the power of originating them."

In Wilson's Works (Vol. 1, p. 445), it is said:

"By the Constitution of the United States money bills originate in the House of Representatives."

It would be a waste of time to cite further quotations. It is sufficient to say that almost without exception every person who has discussed this subject in Congress, and every commentator upon the Constitution, speaks of bills for raising revenue as "money bills." In addition to what has already been said as to the meaning of the latter phrase, we will here cite the definition of Cushing, in his work on Parliamentary Law, section 2369:

"Money bills are those which grant a supply or make an appropriation."

An extract on this point from the inaugural address of President Washington will not be inappropriate:

"To the preceding observations I have one to add which will be most properly addressed to the House of Representatives. It concerns myself, and will, therefore, be as brief as possible. When I was first honored with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed, and, being still under the impression which produced it, I must decline, as inapplicable to myself, any share in the personal emoluments which may indispensably be included in a permanent provision of the Executive Department, and must, accordingly, pray that the pecuniary estimates for the station in which I am placed may, during my continuance in it, be limited to such actual expenditure as the public good may be thought to require."

What significance was there in his addressing this part of his message to the House of Representatives, relating, as it did, to matters of appropriations, if it had not been his opinion that the House had the power of originating appropriation bills? and does it not signify that such was the current opinion of that time?

Fourthly. From the time of the first Congress, appropriation bills have, with few exceptions, originated in the House. These exceptions are unimportant, either in number or amount, and on that account the House, without objection, has permitted the bills included in such exceptions, which have originated in the Senate, to become laws. They are not of sufficient consequence to be regarded as precedents to establish the right in the Senate to originate such bills when confronted with the unvarying usage that all general appropriation bills have originated in the lower branch of Congress. On one occasion, in 1857, the Senate did originate a general bill of appropriation which it sent to the House, but the latter body entirely ignored it, and originated, as usual, its own bill. With this exception, the Senate has uniformly awaited the action of the House in originating bills of appropriation and confined itself as in other bills of revenue to the proposing of amendments to them.

The first appropriation bill provided in its opening section the sources from which the money should be drawn, and afterwards directed the purposes to which it should be applied. In one of the first bills for the imposition of duties, it was provided that out of the proceeds a sum of $600,000 should be set aside annually for the public expenditure, and in almost every general appropriation bill until 1813 it was declared that out of that $600,000 the sums set aside for particular purposes should be paid. These enactments were in manifest analogy to similar legislation in the British Parliament and show plainly that the early opinion was universal that the House of Representatives possessed the same power over money bills which belonged to the House of Commons.

Fifthly. The Constitution itself, in conferring the power of appropriation and in providing the method of its exercise, confirms the position here maintained. The power of raising money and of appropriating money is conferred in the same phrase. Section 8, article 1, provides that—

"The Congress shall have power to lay and collect taxes, duties, imposts, and excise to pay the debts and provide for the common defense and general welfare of the United States."

The first part of the sentence confers the power of raising money, the second the power of appropriating it. They are inseparably connected. The power of appropriation seems to be a part of the first power, granted to complete and perfect it. Whatever therefore affects the one must affect the other. Whatever limitations are put upon the first must extend to the second, because the second only exists as inci-

dental to the first. The taxes are levied to pay the debts of the United States. The money is raised to be appropriated to the public use. As this provision relates to the raising of the revenue, it authorizes the enactment of all proper laws upon the subject. As part of the bills for which it provides must originate in the House, there seems to be no reason that other bills authorized by its provisions relating to the same subject, kindred in nature and necessary to the complete execution of the powers conferred, should not likewise originate in that body.

President Monroe, in his message respecting the bill for the repairs of the Cumberland Road (May 4, 1822), in speaking of this section said:

"That the second part of this grant gives a right to appropriate the public money, and nothing more, is evident from the following considerations: (1) If the right of appropriation is not given by this clause it is not given at all, there being no other grant in the Constitution which gives it directly, or which has any bearing upon the subject, even by implication, except the two following"

Which we will hereafter consider.

"(2) This part of the grant has none of the characteristics of a distinct and original power. It is manifestly incidental to the great objects of the first grant, which authorizes Congress to lay and collect taxes, duties, imposts, and excises. * * * Congress shall have power to lay and collect taxes, duties, imposts, and excises for what purpose? To pay the debts and provide for the common defense and general welfare of the United States. An arrangement and phraseology which clearly show that the latter part of the clause was intended to enumerate the purposes to which the money thus raised might be appropriated."

Further on President Monroe says:

"The right of appropriation is therefore from its nature secondary, and incidental to the right of raising money, and it was proper to place it in the same grant and same clause with that right."

And still later he says:

"If we look to the second branch of this power, that which authorizes the appropriation of money thus raised, we find that it is not less general and unqualified than the power to raise it. More comprehensive terms than to 'pay the debts and provide for the common defense and general welfare' could not have been used. *So intimately connected with and dependent on each other are these two branches of power, that had either been limited, the limitation would have had a like effect on the other. Had the power to raise money been conditional or restricted to special purposes, the appropriation must have corresponded with it.*"

Upon this point it is unnecessary to say more. The power to raise money, it is conceded, is limited and conditioned to this extent, that bills raising it must originate in the House; the bill appropriating money, it results from the opinion of this great authority, must correspond with it.

In passing, we desire to call attention to the two provisions of the Constitution in which appropriations are expressly mentioned.

In section 8 of article 1 it is provided that "no appropriation of money to that use"—the Army—"shall be for a longer term than two years." Section 9 of article 1:

"No money shall be drawn from the Treasury but in consequence of appropriations made by law."

The only remark we desire to make as to these provisions in this discussion is, that if the word "revenue" in section 7 of that article has the restricted sense which is claimed for it in the report of the subcommittee, it would have made the phraseology of the Constitution more consistent with itself to have said in these sections: "No appropriation of revenue shall be made to that use," and "no revenue shall be drawn from the Treasury but in consequence of appropriations made by law."

Lastly. The consequences from the adoption of the view of the subcommittee would be destructive of the objects sought to be accomplished by the section under consideration. The purpose of this provision was to give the immediate representatives of the people the control of the purse. That power is of little consequence if it can be exercised only to put money into the Treasury. The control of the expenditure is of, by far, the greater importance. To give to the House the power of raising money and to the Senate the power of expending it would be to control the grants of the former through the debts of the latter. To give to the House the power to originate bills to raise money, and the Senate the power to originate bills to spend it would be, in like manner, to permit the latter to govern the discretion of the former as to the origination of tax bills. It may be said that Senate bills appropriating money could not become laws without the consent of the House, so that no appropriation could be made without the permission of the latter. But the reply is that it is the *power of originating* bills which was thought to be of such value in this connection. This power of originating bills for raising money can accomplish but little if the discretion of the body invested with it can be affected by the originating power of another body, as will certainly be the case if the Senate can originate appropriation bills, as has been claimed.

Again, it must be remembered that a bill levying taxes or imposing duties for raising money is passed only once in every ten or fifteen years. Few amendments are made to it afterward, until a new system is adopted. To confine the power of origination to such bills would be to deprive the Representatives for the greater part of the time of any control of the purse under this section, for after the tax bills have been passed and the money from them has been gathered annually into the Treasury, the Senate, under the views of the subcommittee, would have equal power with the House over the money collected.

When we remember the practices as to money bills in the English Parliament, and the purposes of the framers of the Government in adopting this principle, we can not believe that they intended to grant to the House such an idle and barren power as that would be of originating bills to raise money without power of originating bills to expend it.

There were several reasons combining to secure the adoption of this provision in the Constitution. Some desired it because it gave to the people the control of the purse, some because it would operate as a restriction upon the Senate, but the most chiefly because the proviso was part of a compromise made between the great and small States. The Senate was composed of representatives from the States which stood equally in that body. It confirmed appointments, and, with the President, made treaties. To satisfy the larger States, which objected that the smaller States should be equal with them in so important a body, this section was adopted to give to the representatives of the people, who were chosen according to a basis of population, the power over the revenue. Without this provision it is improbable that the Constitution would have ever been adopted. It was the compromise of which it is a part that made the adoption of that instrument possible. We think it is one of the highest duties of the House to maintain this compromise in its fullest meaning, and even if it were doubtful whether the House possessed the power to originate appropriation bills, we think the doubt should be resolved, at least by this House, in favor of its possession of the power.

We think with Mr. White who, in the first Congress, said, "The Constitution having authorized the House of Representatives to originate money bills, places an important trust in our hands, which, as their protectors, we ought not to part with."

We therefore recommend the adoption of the following resolution:

Resolved, That the seventh section of article one of the Constitution, which provides that "All bills for raising revenue shall originate in the House of Representatives," confers exclusive power upon the House to originate bills appropriating money from the public treasury.

Resolved, That the Senate bill which has been referred to this committee be returned to the Senate of the United States with a copy of these resolutions.

FRANK H. HURD.
JOHN F. HOUSE.
JOHN W. RYON.
E. G. LAPHAM.
CHARLES G. WILLIAMS.

CONTROL OF THE SENATE WING OF THE CAPITOL.

USE OF SENATE CHAMBER.

There have been a few instances in which the Senate chamber has been used for other meetings than those of the Senate. In all cases these assemblies have been of a religious or charitable nature. March 16, 1822, the chaplains of Congress were granted permission to occupy the chamber on the following day "for the purpose of public worship." June 21, 1838, the Senate refused to allow Dr. Sherwood and Dr. Dwight to use the chamber to explain a discovery of the laws regulating the variation of the magnetic needle. January 24, 1865, Bishop Simpson was tendered the use of the chamber for the delivery of a lecture. This was by unanimous consent.

In the following year the subject of the use of the chamber for other purposes than those of the Senate was fully discussed. April 10, 1866, a resolution was offered to allow Mrs. M. C. Walling to deliver a lecture in the chamber, the floor being reserved for members of the Senate and House and their families. The resolution passed on a yea and nay vote, 17 to 16. Two days later this was reconsidered and the resolution disagreed to. The friends of Mrs. Walling revived the resolution on May 2, but again failed to secure its passage. This vote was 16 to 18. May 8 the resolution was reconsidered a third time and passed, but it was resolved that "hereafter the Senate chamber shall not be granted for any other purpose than for the use of the Senate."

While the discussion over granting the privilege to Mrs. Walling was pending James E. Murdock gave a reading in the chamber for the benefit of a fair in aid of the National Home for the Orphans of Soldiers and Sailors.

November 25, 1867, an effort was made to obtain permission for Rev. Newman Hall to lecture in the chamber, but permission was refused by vote of 10 to 29. Such permission has never been granted since. In 1877 the National Woman's Suffrage Association petitioned to be allowed to use the Senate chamber to present a constitutional amendment in relation to woman suffrage. The petition was referred, but no further action was taken upon it.

1st sess. 17th Cong., J. of S., 196.] MARCH 16, 1822.

On motion by Mr. Chandler,

Resolved, That permission be granted to the chaplains of Congress to occupy the Senate chamber to-morrow for the purpose of public worship.

2d sess. 25th Cong., J. of S., 485.] JUNE 21, 1838.

The following motion, submitted by Mr. Tallmadge, was considered by unanimous consent and *disagreed* to:

Resolved, That the use of the Senate chamber, between the hours of 9 and 11 o'clock a. m., on Friday next be allowed to Dr. Sherwood and Dr. Dwight for the purpose of explaining and demonstrating the discovery which the former conceives that he has made of the laws which regulate the variation of the magnetic needle, and of the means of thence deducing, at any time, by a simple and infallible process, the latitude and longitude of any point on the globe.

2d sess. 38th Cong., J. of S., 95.] JANUARY 24, 1865.

Mr. Wilkinson submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the use of the Senate chamber be tendered to Bishop Simpson, to-morrow (Wednesday) evening for the purpose of delivering a lecture therein.

1st sess. 39th Cong., J. of S., 326.] APRIL 10, 1866.

Mr. Wilson submitted the following resolution for consideration:

Resolved, That the use of the Senate chamber be granted to Mrs. M. C. Walling for

the purpose of delivering therein an address, on Tuesday evening, the 17th instant, the floor of the chamber to be for the exclusive accommodation of members of the Senate and House of Representatives and their families.

The Senate proceeded by unanimous consent to consider the said resolution; and, on the question to agree thereto,

It was determined in the affirmative, { Yeas ..... 17 / Nays 16

Ib., 333.] APRIL 12, 1866.

The Senate proceeded to consider the motion submitted yesterday by Mr. Clark, that the Senate reconsider its vote agreeing to the resolution granting the use of the Senate chamber to Mrs. M. C. Walling, on Tuesday evening next, for the purpose of delivering a lecture, and the motion was agreed to.

The question recurring, will the Senate agree to the resolution?

It was determined in the negative.

So the resolution was not agreed to.

Ib., 392.] MAY 2, 1866.

The Senate proceeded to consider the motion of Mr. Clark to reconsider the vote agreeing to the resolution to grant the use of the Senate Chamber to Mrs. M. C. Walling for the purpose of delivering a lecture therein; and

The motion to reconsider having been agreed to, and the question recurring upon the resolution, and the same having been amended on motion of Mr. Wade, and further amended on motion of Mr. Anthony,

On the question to agree to the resolution as amended as follows:

Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address, on Monday evening, the 7th instant, the floor of the Chamber to be for the exclusive accommodation of members of the Senate and House of Representatives and their families; and that hereafter the Senate Chamber shall not be granted for any other purpose than for the use of the Senate.

It was determined in the negative, { Yeas ..... 16 / Nays 18

Ib., 410.] MAY 8, 1866.

The Senate proceeded to consider the motion submitted by Mr. Dixon on the 3d instant to reconsider the vote disagreeing to the resolution to grant the use of the Senate Chamber to Mrs. M. C. Walling for the purpose of delivering an address therein; and

On the question to agree to the motion,

It was determined in the affirmative, { Yeas ..... 19 / Nays 11

[The names are omitted.]

So the vote disagreeing to the resolution was reconsidered.

The question recurring upon the resolution, and the same having been amended on motion by Mr. Wade, it was agreed to as follows:

Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address on Thursday evening, the 10th instant; the floor of the Chamber to be for the accommodation of members of the Senate and House of Representatives and their families; and that hereafter the Senate Chamber shall not be granted for any other purpose than for the use of the Senate.

1st sess. 39th Cong., Cong. Globe, 2447.] MAY 8, 1866.

Mr. WADE. I particularly wish to say this before the vote is taken on the reconsideration. This lady, I believe, was in Texas when the war broke out. She has three young children dependent upon her for support. She lectures, as I understand, very much to the acceptation of the people, and she endeavors to support herself in this way. She is exceedingly anxious that she should have the opportunity to lecture here at once; more I believe on account of the prestige it will give her to have this hall than for any other reason. I hope this privilege will be granted to her.

Ib., 379.] APRIL 27, 1866.

Mr. Wilson submitted the following motion for consideration:

Resolved, That the use of the Senate Chamber be granted to James E. Murdock, esq., on Thursday evening, May 3, for the purpose of giving a reading for the benefit of the fair to be held in this city for the National Home for the Orphans of Soldiers and Sailors.

[May 1, 1866, the resolution was agreed to (ib., 388).]

1st sess. 40th Cong., J. of S., 187.] NOVEMBER 25, 1867.

Mr. Sumner submitted the following resolution for consideration:

Resolved, That the Senate Chamber be set apart for a lecture from Rev. Newman Hall on the evening of Tuesday, 26th November.

On motion by Mr. Sumner,

The Senate proceeded by unanimous consent to consider the said resolution; and

After debate,

On the question to agree to the resolution,

It was determined in the negative, { Yeas ..... 10 / Nays 27

2d sess. 44th Cong., J. of S., 250.] FEBRUARY 15, 1877.

Mr. Hamlin submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Electoral Commission have leave to occupy the Senate Chamber for its sittings in the evening, after the Senate shall have taken a recess for the day.

2d sess. 45th Cong., J. of S., 46.] DECEMBER 11, 1877.

Mr. Wadleigh presented a petition of Clemence S. Lozier, president, and other officers of the National Woman's Suffrage Association, praying the use of the Senate Chamber on the — day of January next for the delegates to the sixteenth amendment convention, in which to present the subject of a constitutional amendment in relation to Woman Suffrage; which was referred to the Committee on Public Buildings and Grounds.

DECORATION.

In 1832 a portrait of Washington was purchased to be hung upon the walls of the Chamber. No provision was made for such decoration in the new Chamber, and in 1884 the Senate resolved that no paintings or portraits should be placed upon the walls. May 13, 1886, however, it was voted to place in the niches of the Chamber and corridors busts of the Vice-Presidents of the United States.

1st sess. 22d Cong., J. of S., 365.] JUNE 23, 1832.

Mr. Frelinghuysen, from the Committee on the Library of Congress, to whom the subject was referred by a resolution of the Senate of the 27th of April last, reported the following resolution; which was read and passed to a second reading:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to purchase of Mr. R. Peele, of New York, his original portrait of George Washington, for the Senate Chamber: *Provided*, That the cost of the same does not exceed the sum of —— dollars, to be paid out of the contingent fund of the Senate.

[Passed July 2 (ib., 382).]

1st sess. 48th Cong., J. of S., 317.] FEBRUARY 15, 1884.

Mr. Cockrell submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That no paintings or portraits be placed upon the walls of the Senate Chamber.

1st sess. 49th Cong., J. of S., 214.] JANUARY 27, 1886.

Mr. Ingalls submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Library be directed to consider the subject of placing busts of the Vice-Presidents and the Presidents *pro tempore* of the Senate in the vacant niches of the Senate Chamber and its corridors, and report by bill or otherwise.

Ib., 258.] FEBRUARY 8, 1886.

Mr. Voorhees, from the Committee on the Library, who were instructed by a resolution of the Senate to inquire into the expediency of placing marble busts of those who had been Vice-Presidents in the niches of the Senate Chamber and its corridors, reported the following resolution for consideration:

Resolved, That marble busts of those who had been Vice-Presidents of the United States shall be placed in the vacant niches of the Senate Chamber, and that the

Architect of the Capitol is authorized, subject to the advice and approval of the Senate Committee on the Library, to carry into execution the object of this resolution, and the expenses incurred in doing so shall be paid out of the contingent fund of the Senate.

Ib., 730.] MAY 13, 1886.

The Senate proceeded to consider the resolution providing for placing marble busts of those who have been Vice-Presidents in the vacant niches of the Senate Chamber; and having been amended on the motion of Mr. Ingalls,

The resolution as amended was agreed to as follows:

Resolved, That marble busts of those who have been Vice-Presidents of the United States shall be placed in the vacant niches of the Senate Chamber from time to time; that the Architect of the Capitol is authorized, subject to the advice and approval of the Senate Committee on the Library, to carry into execution the object of this resolution, and the expenses incurred in doing so shall be paid out of the contingent fund of the Senate.

LIQUORS.

September 18, 1837, a joint rule was adopted prohibiting the sale of intoxicating liquors in and about the Capitol. March 6, 1865, the Sergeant-at-Arms was directed to remove from so much of the Capitol as was under his control all intoxicating liquors, and thereafter to exclude them from the Senate Wing. In 1867 a resolution of a similar tenor was adopted.

1st sess. 25th Cong., J of. S , 35.] SEPTEMBER 18, 1837.

The Senate proceeded to consider the resolution of the House of Representatives for the adoption of the following joint rule:

"No spirituous liquors shall be offered for sale or exhibited within the Capitol, or on the public grounds adjacent thereto," and

Resolved, That they agree therein.

2d sess. 38th Cong., J. of S., 347] MARCH 6, 1865.

Mr. Wilson submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Sergeant-at-Arms be, and he is hereby, directed to remove forthwith from so much of the Capitol as is under his care all intoxicating liquors, and hereafter to exclude liquors in every form from the Senate portion of the Capitol.

1st sess. 40th Cong., J. of S., 12.] MARCH 7, 1867.

Mr. Wilson asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. 7) to prevent the sale or use of liquors in the Capitol building; which was read the first and second times by unanimous consent.

Ordered, That it lie on the table and be printed.

Ib., 20.] MARCH 8, 1867.

On motion by Mr. Wilson,

The Senate proceeded to consider, as in Committee of the Whole, the joint resolution (S. 7) to prevent the sale or use of liquors in the Capitol building; and

After debate,

On motion by Mr. Buckalew, that the resolution be referred to the Committee on Public Buildings and Grounds,

It was determined in the affirmative, { Yeas ..... 22 / Nays 21

So it was

Ordered, That the resolution be referred to the Committee on Public Buildings and Grounds.

1st sess. 40th Cong., J. of S., 38.] MARCH 14, 1867.

Mr. Fessenden, from the Committee on Public Buildings and Grounds, to whom was referred the joint resolution (S. 7) to prevent the sale or use of liquors in the Capitol building, reported it without amendment, and that it ought not to pass.

Mr. Fessenden, from the Committee on Public Buildings and Grounds, to whom was referred the joint resolution (S. 7) to prevent the sale or use of liquors in the Capitol building, reported the following resolution:

Resolved by the Senate (the House of Representatives concurring), That the nineteenth joint rule of the two Houses be amended so as to read as follows:

No spirituous or malt liquors or wines shall be offered for sale, exhibited, or kept

within the Capitol, or in any room or building connected therewith, or on the public grounds adjacent thereto; and it shall be the duty of the sergeants-at-arms of the two Houses, under the supervision of the presiding officers thereof, respectively, to enforce the foregoing provisions; and any officer or employé of either House who shall in any manner violate or connive at the violation of this rule shall be dismissed from office.

[March 15, 1867, considered and agreed to. (Ib., 43.)]

Ib., 60.] MARCH 19, 1867.

A message from the House of Representatives, by Mr. McPherson, its Clerk.

* * * * * * *

It has concurred in the resolution of the Senate to amend the nineteenth joint rule of the two Houses, to prevent the sale or use of liquors in the Capitol building or the grounds adjacent thereto; and

It has passed the following bill, etc.

1st sess. 51st Cong., J. of S., 472.] AUGUST 18, 1890.

Mr. Plumb submitted the following resolution for consideration:

Resolved, That the Committee on Rules be directed to make such order as shall wholly prevent the sale and drinking of spirituous, vinous, or malt liquors in the Senate wing of the Capitol.

1st sess. 51st Cong., J. of S., 474.] AUGUST 19, 1892.

The President *pro tempore* laid before the Senate the resolution yesterday submitted by Mr. Plumb to prohibit the sale of liquors in the Senate wing of the Capitol, and an amendment having been proposed by Mr. Butler,

On motion by Mr. Gorman, to refer the resolution to the Committee on Rules,

Ordered, That the further consideration thereof be postponed to to-morrow.

1st sess. 51st Cong., J. of S., 478.] AUGUST 21, 1890.

The President *pro tempore* laid before the Senate the resolution submitted by Mr. Plumb on the 18th instant, to prohibit the sale of liquors in the Senate wing of the Capitol.

The question being on the motion of Mr. Gorman to refer the said resolution to the Committee on Rules;

After debate,

Ordered, That the further consideration thereof be postponed to to-morrow.

[Cong. Rec., 1st sess. 51st Cong., 8906–8909.]

1st sess. 51st Cong., J. of S., 482.] AUGUST 25, 1890.

The President *pro tempore* laid before the Senate the resolution submitted by Mr. Plumb on the 18th instant, relative to the sale of liquors in the Capitol; and

The question being on the motion of Mr. Gorman to refer the resolution to the Committee on Rules;

Mr. Plumb, with the consent of the Senate, modified his resolution to read as follows:

Resolved, That the Committee on Rules be directed to make such order as shall wholly prevent the sale of spirituous, vinous, or malt liquors in the Senate wing of the Capitol.

Whereupon

Mr. Gorman withdrew his motion to refer, and

The question recurring on the amendment proposed by Mr. Butler,

Ordered, That the further consideration of the resolution be postponed to to-morrow.

[Cong. Rec., 1st sess. 51st Cong., 9108.]

1st sess. 51st Cong., J. of S., p. 485.] AUGUST 26, 1890.

The President *pro tempore* laid before the Senate the resolution submitted by Mr. Plumb, to prohibit the sale of liquors in the Senate wing of the Capitol, and

The Senate resumed the consideration of the resolution; and

The question being on the amendment proposed by Mr. Butler,

It was determined in the negative.

On motion by Mr. Blair to amend the resolution by inserting after the word "liquors" the words, *and their use as a beverage.*

After debate,

On motion by Mr. Sherman,

Ordered, That the resolution be referred to the Committee on Rules.

LIBRARY.

1st sess. 34th Cong., J. of S., 421.] JULY 8, 1856

Mr. Weller submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of having a suitable room fitted up for a Senate library and the appointment of a proper person to take charge of the same.

1st sess. 41st Cong., J. of S., 172.] APRIL 19, 1869

Mr. Morrill submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Architect of the Capitol be directed to have a room in the attic story of the Capitol, in the rear of the Supreme Court room, fitted up for the reception of the books belonging to the office of the Secretary of the Senate, which are now deposited in the room of the Committee on Appropriations and in the upper corridors of the Senate.

2d sess. 41st Cong., J. of S., 210.] FEBRUARY 7, 1870.

Mr. Ferry submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be directed to ascertain if suitable rooms can be had in which the Secretary of the Senate may arrange, for the convenience of the Senate, the books in his department, and to inquire as to the probable cost of fixing them for such purpose.

2d sess. 45th Cong., J. of S., 531.] MAY 20, 1878.

Mr. Hoar submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Library be directed to consider and report on the propriety of placing in a portion of one of the rooms opening from the Senate Chamber a small library of books for reference for the use of the Senate.

COMMITTEES.

The standing committees were first appointed as such in 1816, although before that time the custom had been to refer to select committees different parts of the President's message, and these were practically standing committees. Three committees existed before 1816: The Committee on Engrossed Bills, created in 1806; the Committee on Enrolled Bills, which was a joint committee, and the Committee to Audit and Control the Contingent Expenses, created in 1807.

These committees were originally of five members, except the Committee on Contingent Expenses and Engrossed Bills, which had three members each. December 12, 1853, at the first session of the Thirty-third Congress, the number of members of the more important committees was increased to six, and in 1857 the number was made seven in these committees, leaving the others to consist of five members. The number was increased to nine in 1873.

These committees were originally elected by the Senate. In 1823, however, an effort was made to change the rule to provide for their appointment by the presiding officer, and in 1826 this was rescinded, and in December of that year it was provided that the Senate elect the chairmen, and then by one ballot choose the remaining members of the committees.

December 24, 1828, the rule was again changed to provide for the appointment of the committees by the President *pro tempore*. In several instances in the absence of the Vice-President the rule was suspended and the President *pro tempore* elected to a chairmanship. The rest of the committees were then appointed by the Chair.

The practice then grew up of suspending the rule by unanimous consent and leaving the appointment of the committees to the President of the Senate, but at the first session of the Twenty-ninth Congress the Senate, after debate, refused to follow the custom and the committees were elected. In 1838 and 1839 the committees were appointed, by unanimous consent. December 13, 1847, the rule was suspended and a resolution was adopted assigning the members to committees. In The thirty-fourth Congress, 1855, a part of the committees were chosen by ballot and the rest by resolution. The practice of suspending the rule and determining the arrangement of committees by resolution is now generally followed. Vacancies on committees have usually been filled by the Chair.

CREATION.

ON ENGROSSED BILLS.

4 J. of S., 67.] MARCH 26, 1806.

[Rule] 22. At the commencement of each session a committee consisting of three members shall be appointed, whose duty it shall be to examine all bills, amendments, resolutions, or motions before they go out of possession of the Senate, and to make report that they are correctly engrossed; which report shall be entered on the Journal.

[December 4, 1806 (4 J. of S., 111), the committee was appointed under this rule.]

ON ENROLLED BILLS.

1 J. of S., 50.] JULY 31, 1789.

A message from the House of Representatives by Mr. Beckley, their clerk, who informed the Senate that the House of Representatives had appointed Mr. White and Mr. Partridge, with such as the Senate may join, a standing committee to examine the enrollment of all bills, as the same shall pass the two Houses, and, after being

signed by the President of the Senate and Speaker of the House of Representatives, to present them forthwith to the President of the United States.

* * * * * * *

The senate proceeded to appoint Mr. Wingate a committee on their part to examine and present to the President of the United States the enrolled bills that may pass the Senate and House of Representatives from time to time.

ON CONTINGENT EXPENSES.

4 J. of S., 190.] OCTOBER 30, 1807.

A motion was made by Mr. Adams that the following rule be added to the rules for conducting business in the Senate:

At the commencement of every session a committee of three members shall be appointed, whose duty it shall be to audit and control the contingent expenses of the Senate.

Ordered, That this motion lie for consideration.

[Agreed to November 4, 1807. (4. J. of S., 191.)]

STANDING COMMITTEES.

2d sess. 14th Cong., J. of S., 30.] DECEMBER 5, 1816.

Mr. Barbour submitted the following motion for consideration, which was read twice by unanimous consent:

Resolved, That it shall be one of the rules of the Senate that the following standing committees be appointed at each session:

A Committee on Foreign Relations.
A Committee on Ways and Means.
A Committee on Commerce and Manufactures.
A Committee on Military Affairs.
A Committee on the Militia.
A Committee on Naval Affairs.
A Committee on Public Lands.
A Committee of Claims.
A Committee on the Judiciary.
A Committee on the Post-Office and Post-Roads.
A Committee on Pensions.

[December 9, the resolution was amended by substituting for "Ways and Means," *Finance.* (Ib. 35.)]

Ib. 38.] DECEMBER 10, 1816.

Resolved, That it shall be one of the rules of the Senate that the following standing committees be appointed at each session:

A Committee on Foreign Relations.
A Committee on Finance.
A Committee on Commerce and Manufactures.
A Committee on Military Affairs.
A Committee on the Militia.
A Committee on Naval Affairs.
A Committee on Public Lands.
A Committee on Claims.
A Committee on the Judiciary.
A Committee on the Post-Office and Post-Roads, and
A Committee on Pensions.

ON THE DISTRICT OF COLUMBIA.

2d sess. 14th Cong., J. of S., 49.] DECEMBER 16, 1816.

Mr. Mason, of Virginia, submitted the following motion for consideration, which was read:

Resolved, That it shall be one of the rules of the Senate that there be appointed, at each session, a standing committee for the District of Columbia.

Ordered, That it pass to the second reading.

Ib., 51.] DECEMBER 17, 1816.

Resolution was read a second time, considered as in Committee of the Whole, and determined in affirmative to be engrossed and read three times.

[*December* 18. Read third time and passed. Ib. 56.]

1st sess. 16th Cong., J. of S., 65.] JANUARY 3, 1820.

[Rule] 30. The following standing committees, to consist of five members each, shall be appointed at the commencement of each session, with leave to report by bill or otherwise:

A Committee on Foreign Relations.
A Committee on Finance.
A Committee on Commerce and Manufactures.
A Committee on Military Affairs.
A Committee on Militia.
A Committee on Naval Affairs.
A Committee on Public Lands.
A Committee on Indian Affairs.
A Committee on Claims.
A Committee on the Judiciary.
A Committee on the Post-Office and Post-Roads.
A Committee on Pensions.
A Committee on the District of Columbia.

A Committee of three members whose duty it shall be to audit and control the contingent expenses of the Senate.

A committee consisting of three members whose duty it shall be to examine all bills, amendments, resolutions, or motions, before they go out of possession of the Senate, and to make report that they are correctly engrossed; which report shall be entered on the Journal.

ON ROADS AND CANALS.

2d. sess. 16th Cong., J. of S., 22.] NOVEMBER 20, 1820.

Resolved, That a standing committee, to consist of five members, be appointed on roads and canals, with leave to report by bill or otherwise.

1st sess. 19th Cong., J. of S., 28.] DECEMBER 7, 1825.

Mr. Ruggles submitted the following motion for consideration:

Resolved, That there be added to the thirtieth rule for conducting business in the Senate the following:

And a committee, to consist of five members, on roads and canals.

Ib., 29.] DECEMBER 9, 1825.

The Senate proceeded to consider the motion of the 7th instant, to amend the thirtieth rule, by adding thereto the words, *and a committee, to consist of five members, on roads and canals.*

On the question to agree thereto, it was determined in the negative.

[See G. and S. Reg., Vol. 2, pt. 1 (1st sess. 19th Cong.), 4.]

1st. sess. 21st Cong., J. of S., 90.] JANUARY 18, 1830.

The following motion, submitted by Mr. Smith, of Maryland, was considered and agreed to:

Resolved, That the Committee on Roads and Canals be considered a standing committee.

1st. sess. 17th Cong., J. of S., 24.] DECEMBER 11, 1821.

On motion by Mr. Eaton,

That the rules of the Senate be referred to a select committee with instructions to expunge so much thereof as relates to the standing committees,

It was determined in the negative.

ON MANUFACTURES.

1st. sess. 19th Cong., J. of S., 6.] DECEMBER 6, 1825.

Mr. Dickerson submitted the following motion for consideration:

Resolved, That the thirtieth rule for conducting business in the Senate be so amended that instead of a Committee on Commerce and Manufactures there be two standing committees, one of commerce and one of manufactures.

[See G. and S. Reg., 1st sess. 19th Cong., 1–3.]

[March 5, 1857, this committee was dropped from the list *v. infra*, p. 324.]

3d sess. 37th Cong., J. of S., 453.] MARCH 9, 1863.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That the thirty-fourth rule of the Senate be amended by adding thereto the following:

A Committee on Manufactures to consist of five members.

[Cong. Globe, 3d sess. 37th Cong., 1562.]

MARCH 10, 1863.

The Senate proceeded to consider the resolution yesterday submitted by Mr. Anthony, to amend the thirty-fourth rule of the Senate, by adding thereto a Committee on Manufactures; and

On the question to agree to the resolution,

It was determined in the negative.

So the resolution was not agreed to.

[Globe, 1563.]

* * * * * * *

On motion by Mr. Anthony, that the Senate reconsider the vote disagreeing to the resolution proposing an amendment to the thirty-fourth rule of the Senate,

It was determined in the affirmative; and

On the question to agree to the resolution,

Ordered, That the resolution lie on the table.

[Globe, 1563.]

1st sess. 38th Cong., J. of S., 130.] FEBRUARY 4, 1864.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That there be added to the thirty-fourth rule of the Senate, providing for the appointment of the standing committees, the following, viz:

A Committee on Manufactures, to consist of five members.

Ib., 143.] FEBRUARY 10, 1864.

On motion by Mr. Anthony,

The Senate proceed to consider the resolution submitted by him on the 4th instant proposing an amendment to the thirty-fourth rule of the Senate, to provide for the appointment of a Committee on Manufactures; and

The resolution was agreed to.

ON AGRICULTURE.

1st sess. 19th Cong., J. of S., 29.] DECEMBER 7, 1825.

Mr. Findlay submitted the following motion for consideration:

Resolved, That the thirtieth rule of the Senate be amended by adding thereto the following, viz:

A committee on agriculture.

Ib., 30.] DECEMBER 9, 1825.

The Senate proceeded to consider the motion of the 7th instant to amend the thirtieth rule by adding thereto the following: *A committee on agriculture.*

On the question to agree thereto,

It was determined in the affirmative—yeas 22, nays 14.

[G. and S. Reg., Vol. 3, pt. 1, 5–7.]

[This committee was dropped from the list March 5, 1857, *v. infra*, p. 324.]

3d sess. 37th Cong., J. of S., 154.] JANUARY 27, 1863.

Mr. Harlan submitted the following resolution for consideration:

Resolved, That the rules of the Senate be so amended as to authorize the appointment of a standing Committee on Agriculture.

[January 28, an amendment being proposed, further consideration was postponed to the next day.

[See Cong. Globe, 3d sess. 37th Cong., 539, 560.]

Ib. 451.] MARCH 6, 1863.

Mr. Sherman submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be amended by adding thereto: *A Committee on Agriculture to consist of five members.*

[A Committee on Agriculture and Forrestry of nine members was appointed Feb. 5, 1884 (1st sess. 38th Cong., J. of S., 259).]

ON PRIVATE LAND CLAIMS.

2d. sess. 19th Cong., J. of S., 63.] DECEMBER 26, 1826.

The following motion, submitted by Mr. Barton, was considered and agreed to:

Resolved, That there be added to the standing committees of the Senate the following, viz:

A committee on private land claims.

ON REVOLUTIONARY CLAIMS.

2d sess. 22d Cong., J. of S., 45.] DECEMBER 28, 1832.

On motion by Mr. Ruggles, and by unanimous consent,

Resolved, That there be added to the standing committees of the Senate, *a committee on Revolutionary claims.*

ON PATENTS.

1st sess. 25th Cong., J. of S., 26.] SEPTEMBER 6, 1837.

Mr. Hubbard submitted the following motion for consideration:

Resolved, That the thirty-third rule of the Senate be amended as follows: After the words, "a Committee on the District of Columbia," insert *a committee on Patents and on the Patent Office.*

[Agreed to September 7; ib., 26; G. and S. Reg., Vol. 14, pt. 1, 5.]

ON PUBLIC BUILDINGS.

2d sess. 25th Cong., J. of S., 61.] DECEMBER 19, 1837.

Mr. Roane submitted the following motion, which was considered by unanimous consent, and agreed to:

Resolved, That the thirty-third rule of the Senate be so far amended as to add a committee on Public Buildings, to consist of three members, to act jointly with the same committee of the House of Representatives.

It was agreed, on motion by Mr. Roane, that the Vice-President, appoint the committee.

1st sess. 31st Cong., J. of S., 362.] MAY 28, 1850.

Resolved, That the thirty-third rule of the Senate be so amended as to insert in the clause providing for the appointment of a standing committee on public buildings after the word "members," the words "who shall have power also."

* * * * * * *

Ordered, That the Secretary inform the House of Representatives that the Senate have empowered their standing Committee on Public Buildings to act jointly with the committee on the same subject of the House of Representatives.

[July 23, the Senate were notified of the concurrence of the House (ib., 468)].

2d sess. 39th Cong., J. of S., 91.] JANUARY 11, 1867.

A message from the House of Representative, by Mr. Lloyd, chief clerk:

* * * * * * *

It has passed the following resolution, in which it requests the concurrence of the Senate:

Resolved (the Senate concurring), That the following be added to the joint rules of the two Houses, viz:

Rule. There shall be a joint committee on public buildings and grounds, to consist of five members on the part of the Senate, and seven members on the part of the House, whose duty it shall be to consider all subjects relating to the public edifices and grounds within the city of Washington, which may be referred to them, and report their opinion thereon, together with such propositions relating thereto as may seem to them expedient.

[January 14, 1867, referred to the Committee on the Judiciary (ib., 96).]

Ib., 119.] JANUARY 19, 1867.

On motion by Mr. Poland:

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the resolution of the House of Representatives, proposing an additional

Joint rule providing for the appointment of a joint Committee on Public Buildings and Grounds, and that it be referred to the Committee on Public Buildings and Grounds.

ON THE LIBRARY.

1st sess. 26th Cong., J. of S., 49.] DECEMBER 27, 1839.

Mr. Tappan submitted the following motion for consideration:

Resolved, That a committee of three members be appointed, who, together with a like number to be appointed by the House of Representatives, shall direct the expenditure of all moneys appropriated to purchase books for the Library of Congress.

[Agreed to December 30 (ib., 61), and the committee on the part of the Senate were appointed December 31 (ib., 65).]

Ib. 78.] JANUARY 6, 1840.

A message from the House of Representatives, by Mr. S. Burche, principal clerk:

* * * * * * *

They concur in the resolution passed by the Senate for the appointment of a joint committee to direct the expenditure of all moneys appropriated to purchase books for the Library of Congress; and have appointed Mr. Lewis, Mr. Naylor, and Mr. Tillinghast a committee on their part.

ON PUBLIC PRINTING.

2d sess. 27 Cong., J. of S., 24.] DECEMBER 14, 1841.

Mr. Mangum submitted the following resolution, which was ordered to be printed:

Resolved, That a standing committee of the Senate be appointed, to whom shall be referred every question on the printing of documents, reports, or other matter, transmitted by either of the executive departments, and all memorials, petitions, accompanying documents, together with all other matter, the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, and motions to print by order of the standing committees of the Senate of reports, documents, or other matter pertaining to the subjects referred to such committees by the Senate; and it shall be the duty of such committee on printing to report, in every case, in one day, or sooner, if practicable.

Ib. 31.] DECEMBER 15, 1841.

The Senate proceeded to consider the resolution submitted yesterday by Mr. Mangum, in relation to the public printing; which was amended, on the motion of Mr. King, and agreed to as follows:

Resolved, That a standing committee of the Senate be appointed, to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the executive departments, and all memorials, petitions, accompanying documents, together with all other matter the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, communications from the legislatures of the respective States, and motions to print by order of the standing committees of the Senate, of reports, documents, or other matter pertaining to the subjects referred to such committees by the Senate; and it shall be the duty of such committee on printing to report, in every case, in one day, or sooner if practicable.

[Cong. Globe, 2d sess. 27th Cong., 18.]

2d sess. 33d Cong., J. of S., 149.] JANUARY 22, 1855.

Resolved, That the 34th rule be amended by adding to the clause relating to the Committee on Printing the following:

The said committee shall, also, supervise and direct the procuring of maps and drawings accompanying documents ordered to be printed.

ON RETRENCHMENT.

2d sess. 27th Cong., J. of S., 172.] FEBRUARY 17, 1842.

Mr. Morehead submitted the following resolution for consideration:

Resolved, That a committee on retrenchment, consisting of five members, be added to the standing committees of the Senate, whose duty it shall be to take into consider-

ation the expenditures of the Government in the several departments thereof and to inquire whether any, and if any, what retrenchment can be made without injury to the public service; and to report thereupon, together with such propositions relative thereto as to them shall seem expedient.

[Agreed to February 18, and the committee ordered to be appointed by the President *pro tempore*, for the session (ib., 179).]

ON TERRITORIES.

1st sess. 28th Cong., J. of S., 166.] MARCH 14, 1844.

Mr. Bagby presented a memorial of D. Levy, H. Dodge, and A. C. Dodge, Delegates in Congress from the several Territories, representing the expediency of the appointment by the Senate of a standing committee on Territories, which was read, and

Mr. Bagby submitted the following resolution for consideration:

Resolved, That in addition to the standing committees already appointed by the Senate there shall be a committee of five, appointed by the Chair, to be styled the committee on Territories.

Ib. 189.] MARCH 25, 1844.

The Senate proceeded to consider the resolution, submitted by Mr. Bagby the 14th instant, for the appointment of a standing committee on the Territories.

On motion, by Mr. Evans, that it lie on the table,

It was determined in the negative, { Yeas ..... 18 / Nays 22

The resolution having been amended, on the motion of Mr. Tappan, was agreed to, as follows:

Resolved, That in addition to the standing committees already appointed by the Senate there shall be a committee of five, to be styled the committee on Territories.

On motion by Mr. Bagby and by unanimous consent,

Ordered, That the committee on Territories be appointed by the President *pro tempore* for the present session.

[Congressional Globe, 1st sess. 28th Cong., 438.]

RULE REVISED.

1st sess. 33d Cong., J. of S., 29.] DECEMBER 12, 1853.

Mr. Bright submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be amended to read as follows, viz:

The following standing committees, to consist of the number of members opposite to each, shall be appointed at the commencement of each session, with leave to report by bill or otherwise:

A Committee on Foreign Relations, of six members.
A Committee on Finance, of six members.
A Committee on Commerce, of six members.
A Committee on Manufactures, of five members.
A Committee on Agriculture, of five members.
A Committee on Military Affairs, of six members.
A Committee on the Militia, of five members.
A Committee on Naval Affairs, of six members.
A Committee on Public Lands, of six members.
A Committee on Private Land Claims, of five members.
A Committee on Indian Affairs, of six members.
A Committee on Claims, of six members.
A Committee on Revolutionary Claims, of five members.
A Committee on the Judiciary, of six members.
A Committee on Post-Offices and Post-Roads, of six members.
A Committee on Roads and Canals, of six members.
A Committee on Pensions, of five members.
A Committee on the District of Columbia, of five members.
A Committee on Patents and the Patent Office, of six members.
A Committee on Retrenchment, to consist of five members, whose duty it shall be to take into consideration the expenditures of the Government in the several departments thereof, and to inquire whether any, and, if any, what retrenchment can be made without injury to the public service; and to report thereupon, together with such propositions relative thereto as to them shall seem expedient.

A Committee on Territories, to consist of six members.

A committee of three members, whose duty it shall be to audit and control the contingent expenses of the Senate, and to whom shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate, or creating a charge on the same.

A Committee on Public Buildings, to consist of six members, who shall have power also to act jointly with the same committee of the House of Representatives.

A Committee on Printing, to consist of three members, to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the executive departments; and all memorials, petitions, accompanying documents, together with all other matter the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, communications from the legislatures, or conventions lawfully called, of the respective States, and motions to print by order of the standing committees of the Senate; and excepting also messages and other communications from the President of the United States, and such reports and communications from the heads of departments as may be made to Congress or to the Senate in obedience to law or in answer to calls from the Senate; and it shall be the duty of such Committee on Printing to report in every case in one day, or sooner if practicable.

And a committee of three members whose duty it shall be to examine all bills, amendments, resolutions, or motions before they go out of possession of the Senate, and shall deliver the same to the Secretary of the Senate, who shall enter upon the journal that the same have been correctly engrossed.

[Mr. Bright stated that the only change was that fourteen committees were enlarged to six members each. (Cong. Globe, 1st sess., 33d Cong., 26, 27.)]

2d sess. 35th Cong., J. of S., 53.] DECEMBER 14, 1858.

Mr. Iverson submitted the following resolution, which was considered by unanimous consent:

Resolved, That the 34th standing rule of the Senate be so altered and amended as to make the Committee on Claims to consist of six members.

On the question to agree to the resolution, it was determined in the negative.

[See Cong. Globe, 2d sess. 35th Cong., 69–71.]

[January 26, 1860, the number of members of the Committee on Claims was increased from five to seven (1st sess. 36th Cong., J. of S., 101).]

RULE.

3d sess. 34th Cong. (special session), J. of S., 384.] MARCH 5, 1857.

Mr. Benjamin submitted the following resolution for consideration:

Resolved, That the following be substituted for the thirty-fourth rule of the Senate to take effect from and after the expiration of the present session:

RULE 34. The following standing committees shall be appointed at the commencement of each session, with leave to report by bill or otherwise:

A Committee on Foreign Relations, to consist of seven members.

A Committee on Finance, to consist of seven members.

A Committee on Commerce, to consist of seven members.

A Committee on Military Affairs and the Militia, to consist of five members.

A Committee on Naval Affairs, to consist of five members.

A Committee on the Judiciary, to consist of seven members.

A Committee on Post-Office and Post-Roads, to consist of seven members.

A Committee on Public Lands, to consist of seven members.

A Committee on Private Land Claims, to consist of five members.

A Committee on Indian Affairs, to consist of seven members.

A Committee on Pensions and Revolutionary Claims, to consist of five members.

A Committee on Claims, to consist of five members.

A Committee on the District of Columbia, to consist of seven members.

A Committee on Patents and the Patent Office, to consist of five members.

A Committee on Public Buildings and Grounds, to consist of five members, who shall have power also to act jointly with the same committee of the House of Representatives.

A Committee on Territories, to consist of seven members.

A Committee on the Library, to consist of five members.

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of five members, to whom shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate, or creating a charge on the same.

A Committee on Printing, to consist of three members, to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the executive departments, and all memorials, petitions, accompanying documents, together will all other matter, the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, communications from legislatures or conventions lawfully called of the respective States, and motions to print by order of the standing committees of the Senate; motions to print additional numbers shall likewise be referred to said committee; and when the report shall be in favor of printing additional numbers it shall be accompanied with an estimate of the probable cost; and it shall be the duty of such Committee on Printing to report in every case, in one day or sooner, if practicable; the said committee shall also supervise and direct the procuring of maps and drawings accompanying documents ordered to be printed.

A Committee on Engrossed Bills, to consist of three members, whose duty it shall be to examine all bills, amendments, resolutions, or motions before they go out of the possession of the Senate; and shall deliver the same to the Secretary of the Senate, who shall enter upon the Journal that the same have been correctly engrossed.

A Committee on Enrolled Bills, to consist of three members.

Each of the foregoing committees shall be entitled to employ a clerk with the exception of the six following, which shall not be entitled to a clerk, viz:

(1.) The Committee on Patents and the Patent Office.
(2.) The Committee on Public Buildings and Grounds.
(3.) The Committee to Audit and Control the Contingent Expenses of the Senate.
(4.) The Committee on the Library.
(5.) The Committee on Engrossed Bills.
(6.) The Committee on Enrolled Bills.

The clerks of the Committees on Finance, Printing, and Claims shall be permanent clerks, ot a salary of eighteen hundred and sixty dollars per annum.

The clerks employed by all the other committees shall receive a compensation of six dollars per diem during the time of their actual employment; and at the close of the second session of each Congress shall be entitled to an extra compensation equal to the amount of their per diem for sixty days.

[The resolution was considered by unanimous consent, amended, and agreed to as follows:]

[As above except that the Committee on Naval Affairs was made seven instead of five; in place of the proposed Committee on Pensions and Revolutionary Claims the two committees of Pensions (seven members) and Revolutionary Claims (five members) were continued; and all that part of the resolution relating to the employmen' of clerks was stricken out. (Cong. Globe, 3d sess. 34th Cong., 373–383.)]

[March 12, 1873, the Committees on Post-Offices and on Public Lands were increased to nine members each. 3d sess. 42d Cong., J. of S., 609. Dec. 4, 1873, two members were added to the Committee on Claims and two to the Committee on Foreign Relations. 1st sess. 43d Cong., J. of S., 34.]

ON THE PACIFIC RAILROAD.

1st sess. 38th Cong., J. of S., 43.] DECEMBER 22, 1863.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be added to the standing committees of the Senate a Committee on the Pacific Railroad to consist of nine members.

[Discontinued Mar. 12, 1873, 3d sess. 42d Cong., J. of S., 609, and the committee on Railroads substituted v. *infra*. p. 330.]

ON MINES AND MINING.

2d sess. 38th Cong., J. of S., 163.] FEBRUARY 10, 1865.

Mr. Stewart submitted the following resolution for consideration:

Resolved, That the thirty-fourth rule of the Senate be amended by adding the following as an additional clause: *A Committee on Mines and Mining Interests, to consist of five members.*

2d sess. 38th Congress, J. of S., 349.] MARCH 8, 1865.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be amended by adding the following as an additional clause: *A Committee on Mines and Mining, to consist of seven members.*

ON INVESTIGATION INTO THE CONDUCT OF THE GOVERNMENT.

2d sess. 38th Cong., J. of S., 76.] JANUARY 17, 1865.

Mr. Davis submitted the following resolution for consideration:

Resolved, That the special rule of the Senate XXXIV be amended by adding thereto these words: *A committee for the investigation of the conduct of the Government in all its departments and offices, to consist of five members.*

[Debated January 28 (ib., 110), Cong. Globe, 2d sess. 38th Cong., 468.]

Ib., 113.] JANUARY 30, 1865.

The Senate resumed the consideration of the resolution submitted by Mr. Davis the 17th instant for the appointment of a standing committee for the investigation of the transactions of the Government, to consist of five members; and the resolution having been modified by Mr. Davis to be read as follows:

Resolved, That the special rule of the Senate XXXIV be amended by adding thereto these words: A committee for the investigation of the transactions of the Government in all its departments and offices, to consist of five members; which committee shall be appointed by the Presiding Officer of the Senate. Whenever there is a party political opposition to the executive administration of the government of the Senate, the chairman and majority of the committee shall be selected from the Senators in such opposition; and said committee shall have power to continue its investigations during the recess of the Senate, to send for persons and papers, and to adjourn from time to time and day to day,

On the question to agree to the resolution as modified,

Pending debate thereon,

The Vice-President announced that the hour of 1 o'clock had arrived, and called up the special order of the day, which was, etc.

[Globe, 2d sess. 38th Cong., 489–491.]

[January 31 this was made a special order for Thursday, February 2 (ib., 115), but the Senate adjourned on that day before taking up the question.]

ON CURRENCY AND BANKING.

2d sess. 38th Cong., J. of S., 219.] FEBRUARY 23, 1865.

Mr. Foot submitted the following resolution for consideration:

Resolved, That the thirty-fourth rule of the Senate be amended by inserting after the words, "a Committee on Finance, to consist of seven members," the following: *A Committee on Currency and Banking, to consist of seven members.*

2d sess. 38th Cong., J. of S., 103.] JANUARY 26, 1865.

Mr. Grimes submitted the following resolution for consideration:

Resolved, That there be added to the standing committees of the Senate a Committee on Banks and Banking institutions, to consist of seven members.

ON APPROPRIATIONS.

1st sess. 40th Cong., J. of S., 8.] MARCH 6, 1867.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be amended by adding thereto, after the Committee on Finance, the words: *A Committee on Appropriations, to consist of seven members.*

[The number was increased to nine March 12, 1873, 3d sess. 42d Cong., J. of S. 609. Dec. 14, 1885, another member was added, 1st sess. 49th Cong., J. of S. 85.]

ON REVISION OF LAWS.

3d sess. 40th Cong., J. of S., 13.] DECEMBER 10, 1868.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That there be added to the standing committees of the Senate a committee to be called the Committee on the Revision of the Laws of the United States, to consist of five members.

ON EDUCATION.

3d sess. 40th Cong., J. of S., 41.] DECEMBER 14, 1868.

Mr. Morrill, of Vermont, submitted the following resolution; which was considered by unanimous consent, and referred to the Committee on Agriculture:

Resolved, That the Committee on Revising the Rules of the Senate be instructed to inquire and report as to the expediency of authorizing a committee of five on education.

Ib., 96.] JANUARY 13, 1869.

Mr. Cameron, from the Committee on Agriculture, to whom was referred the resolution submitted by Mr. Morrill, of Vermont, on the 14th of December last, on the expediency of appointing a Committee on Education, to consist of five members, submitted a report recommending the appointment of the said committee.

Ib., 157.] JANUARY 28, 1869.

On motion by Mr. Morrill, of Vermont,

The Senate proceeded to consider the report of the Committee on Agriculture, on the resolution referred to them on the 14th of December last, to inquire into the expediency of appointing a standing Committee on Education; and in concurrence with the recommendation of the committee, it was

Resolved, That there be added to the standing committees of the Senate a committee on education, to consist of five members.

2d sess. 41st Cong. J., of S., 241.] FEBRUARY 14, 1870.

Mr Cragin submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Education on the part of the Senate shall hereafter be known and designated as the Committee on Education and Labor.

[Two members were added to this committee December 4, 1873, 1st sess. 42d Cong., J. of S. 34.]

ON FOREIGN POSTAL COMMUNICATION.

2d sess. 41st Cong. J. of S. 575.] APRIL 29, 1870.

Mr. Cole submitted the following motion for consideration:

Resolved, That there be appointed a standing committee of the Senate, to be designated a Committee on Foreign Postal and Telegraphic Communication.

Ib., 585.] MAY 2, 1870.

The Senate next proceeded to consider the resolution submitted by Mr. Cole on the 29th of April last, for the appointment of a standing committee on foreign postal and telegraphic communication; and on motion by Mr Anthony,

Ordered, that the resolution be referred to the Select Committee on the Revision of the Rules.

ON PRIVILEGES AND ELECTIONS.

1st sess. 42d Cong., J. of S., 20.] MARCH 10, 1871.

Mr. Howe submitted the following motion for consideration:

Resolved, That the following be the standing and select committees of the Senate during the present session:

On Privileges and Elections.—Mr. Sumner, chairman; Mr. Stewart, Mr. Morton, Mr. Rice, Mr. Hamlin, Mr. Hill, and Mr. Thurman.

On Foreign Relations.—Mr. Cameron, chairman; etc.

[On motion by Mr. Sumner his name was stricken from the list of the Committee on Privileges and Elections, and the resolution as amended was agreed to (ib., 22). See Cong. Globe, 1st sess. 42d Cong., 32-43. March 12, 1873, the number of members was increased to nine, 3d sess. 42d Cong., J. of S. 609.]

ON INVESTIGATION AND RETRENCHMENT.

2d sess. 42d Cong., J. of S., 44.] DECEMBER 14, 1871.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That a standing committee of seven, to be known as the Committee on Investigation and Retrenchment, be created to investigate and report on such sub-

ject as may be committed to it by the Senate; and such committee be elected by the Senate as other standing committees.

The Senate proceeded, by unanimous consent, to consider the said resolution, and,

On motion by Mr. Trumbull to amend the resolution by adding thereto the following: And that said committee be instructed to inquire into the expenditures in all branches of the service of the United States, and to report whether any and what offices ought to be abolished; whether any and what salaries ought to be reduced; what are the methods of procuring accountability in public officers or agents in the care and disbursements of public moneys; whether moneys have been paid out illegally; whether any officers or agents or other persons have been or are employed in the public service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed.

And also to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for withdrawing the public service from being used as an instrument of political or party patronage.

That said committee be authorized to sit during the recess of Congress, to send for persons and papers, and to report by bill or otherwise, and that said committee may appoint a clerk;

Pending debate thereon,

The Vice-President announced that the morning hour had expired and called up the unfinished business of the Senate at its last adjournment, which was the resolution submitted by Mr. Conkling on the 6th instant in relation to the recent defalcation of J. L. Hodge, late paymaster United States Army.

On motion by Mr. Anthony and by unanimous consent,

The consideration of the unfinished business was informally passed over for the purpose of continuing the consideration of the resolution submitted by him subject to the call of any Senator for the regular order; and

The Senate resumed the consideration of the resolution of Mr. Anthony; and,

After further debate,

On motion by Mr. Wilson, at five minutes after 4 o'clock,

The Senate adjourned.

Ib., 50.] DECEMBER 14, 1871.

The Senate resumed the consideration of the unfinished business at its last adjournment, viz, the resolution yesterday submitted by Mr. Anthony providing for a standing committee of the Senate, to be known as the Committee of Investigation and Retrenchment; and,

The question being on the amendment proposed by Mr. Trumbull, viz, add to the end of the resolution the following:

And that said committee be instructed to inquire into the expenditures in all branches of the service of the United States, and to report whether any and what offices ought to be abolished; whether any and what salaries ought to be reduced; what are the methods of procuring accountability of public officers or agents in the care and disbursements of public moneys; whether moneys have been paid out illegally; whether any officers or agents or other persons have been employed in the public service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed.

And also to consider the expediency of so amending the laws under which appointments in the public service are now made as to provide for withdrawing the public service from being used as an instrument of political or party patronage.

That said committee be authorized to sit during the recess of Congress, to send for persons and papers, and to report by bill or otherwise, and that said committee may appoint a clerk;

It was determined in the negative, { Yeas ..... 24 / Nays 35

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative are:

* * * * * * *

So the amendment to the resolution proposed by Mr. Trumbiull was not agreed to.

No further amendment being proposed on the question to agree to the resolution,

It was determined in the affimative.

So the resolution was agreed to as follows:

Resolved, That a standing committee of seven, to be known as the Committee of Investigation and Retrenchment, be created to investigate and report on such subjects as may be committed to it by the Senate, such committee to be elected by the Senate as other standing committees.

Whereupon,

Mr. Trumbull submitted the following resolution for consideration:

Resolved, That the Committee on Investigation and Retrenchment be instructed to inquire into the expenditures in all branches of the service of the United States, and to report whether any and what offices ought to be abolished; whether any and what salaries ought to be reduced; what are the methods of procuring accountability of public officers or agents in the care and disbursements of public moneys; whether moneys have been paid out illegally; whether any officers or agents or other persons have been employed in the public service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed. And also to consider the expediency of so amending the laws under which appointments in the public service are now made as to provide for withdrawing the public service from being used as an instrument of political or party patronage.

That said committee be authorized to sit during the recess of Congress, to send for persons and papers, and to report by bill or otherwise, and that said committee may appoint a clerk.

Pending debate thereon,

On motion by Mr. Sherman,

The Senate proceeded to the consideration of executive business.

2d sess. 42d Cong., J. of S., 58.] DECEMBER 18, 1871.

On motion by Mr. Anthony, that the Senate now proceed to the appointment of a Committee on Investigation and Retrenchment,

It was determined in the affirmative; and

On motion by Mr. Anthony, and by unanimous consent,

Ordered, That so much of the thirty-fifth rule as requires the appointment of the standing committees to be by ballot be suspended.

Whereupon,

Mr. Anthony submitted the following resolution:

Resolved, That the Committee on Investigation and Retrenchment be composed of the following Senators: Mr. Buckingham, chairman; Mr. Pratt, Mr. Howe, Mr. Harlan, Mr. Stewart, Mr. Pool, and Mr. Bayard.

The Senate proceeded, by unanimous consent, to consider the said resolution; and,

Pending debate thereon,

The Vice-President announced that the morning hour had expired, and called up the unfinished business of the Senate at its last adjournment, viz, the resolution submitted on the 14th instant giving certain instruction to the Committee on Investigation and Retrenchment as to the matters to be inquired into by the said committee.

On motion by Mr. Anthony that the resolution lie on the table,

It was determined in the affirmative, { Yeas ..... 41 / Nays 22

[The names are omitted.]

So it was

Ordered, That the resolution lie on the table; and

The Senate resumed the consideration of the resolution submitted by Mr. Anthony appointing the Committee on Investigation and Retrenchment; and

After debate,

On motion by Mr. Scott,

Ordered, That the number constituting the said committee be increased to eight, and that Mr. Casserly be the additional member.

On motion by Mr. Trumbull to amend the resolution by adding thereto the following:

And that the said Committee of Investigation and Retrenchment be instructed to inquire into the expenditures in all branches of the service of the United States, and to report whether any and what offices ought to be abolished; whether any and what salaries or allowances ought to be reduced; what are the methods of procuring accountability in public officers or agents in the care and disbursements of public moneys; whether moneys have been paid out illegally; whether any officers or agents or other persons have been or are employed in the public service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed.

And also to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for withdrawing the public service from being used as an instrument of political or party patronage.

That said committee be authorized to sit during the recess of Congress, to send for persons and papers, and to report by bill or otherwise, and that said committee may appoint a clerk.

After debate,

On motion by Mr. Anthony to amend the amendment proposed by Mr. Trumbull, by striking out the following words: "And also to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide for withdrawing the public service from being used as an instrument of political or party patronage;"

After debate,

On motion by Mr. Thurman that the Senate adjourn,

It was determined in the negative; and

The question recurring on the amendment of Mr. Anthony,

After further debate,

On motion by Mr. Thurman that the Senate adjourn,

It was determined in the negative.

The question recurring on the amendment of Mr. Anthony,

It was determined on the affirmative, { Yeas ..... 29 / Nays 18

[The names are omitted.]

So the amendment of Mr. Anthony was agreed to.

On the question to agree to the amendment of Mr. Trumbull, as amended,

On motion by Mr. Wilson to amend the amendment by adding thereto the following:

That said committee be authorized to send for persons and papers, during the present session of the Senate, report by bill or otherwise, and also to employ a clerk.

It was determined in the affirmative, { Yeas ..... 27 / Nays 17

[The names are omitted.]

So the amendment of Mr. Wilson was agreed to.

The question recurring on the amendment of Mr. Trumbull as amended,

On motion by Mr. Vickers to amend the resolution by striking out the names of the members constituting the committee, and in lieu thereof inserting the following:

Lyman Trumbull, chairman; Charles Sumner, Eugene Casserly, Thomas F. Bayard, Henry B. Anthony, Roscoe Conkling, Oliver P. Morton, T. W. Tipton,

It was determined in the negative, { Yeas ..... 12 / Nays 27

[The names are omitted.]

So the amendment of Mr. Vickers was not agreed to.

On the question to agree to the amendment of Mr. Trumbull as amended,

It was determined in the affirmative.

On the question to agree to the resolution as amended,

It was determined in the affirmative, { Yeas ..... 42 / Nays 1

[The names are omitted.]

So the resolution of Mr. Anthony, as amended, was agreed to, as follows:

Resolved, That the Committee of Investigation and Retrenchment be composed of the following Senators: Mr. Buckingham, chairman; Mr. Pratt, Mr. Howe, Mr. Harlan, Mr. Stewart, Mr. Pool, Mr. Bayard, Mr. Casserly; and that the said Committee of Investigation and Retrenchment be instructed to inquire into the expenditures in all branches of the service of the United States, and to report whether any, and what, offices ought to be abolished; whether any, and what, salaries or allowances ought to be reduced; what are the methods of procuring accountability in public officers or agents in the care and disbursements of public moneys; whether moneys have been paid out illegally; whether any officers or agents, or other persons, have been or are employed in the public service without authority of law or unnecessarily; and generally how and to what extent the expenses of the service of the country may and ought to be curtailed.

That said committee be authorized to send for persons and papers during the present session of the Senate and to report by bill or otherwise, and also to appoint a clerk.

[Discontinued Mar. 12, 1873, 3d sess. 42d Cong., J. of S. 609.]

ON RAILROADS.

3d sess. 42d Cong., J. of S., 609.] MARCH 12, 1873.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That there be added to the standing committees of the Senate a committee on railroads, to consist of eleven members.

[See Pacific Railroad *supra*, *p.* 325.]

TRANSPORTATION ROUTES TO THE SEABOARD.

3d sess. 42d Cong., J. of S., 41.] DECEMBER 9, 1872.

Mr. Windom submitted the following resolution for consideration; which was ordered to be printed:

Whereas the productions of our country have increased much more rapidly than the means of transportation, and the unprecedented growth of population and products will in the near future demand additional facilities and cheaper ones to reach tide water; and whereas, in his message, the President of the United States invites the attention of Congress to the fact that it will be called upon at its present session to consider "various enterprises for the more certain and cheaper transportation of the constantly increasing surplus of western and southern products to the Atlantic seaboard," and further says, "The subject is one that will force itself upon the legislative branch of the Government sooner or later, and I suggest therefore, that immediate steps be taken to gain all available information to insure equable and just legislation. * * * I would therefore suggest either a committee or a commission to be authorized to consider the whole question, and to report to Congress at some future day for its better guidance in legislating on this important subject;" Therefore,

Resolved, That a committee of five be appointed, to whom shall be referred that part of the President's message relating to transportation routes to the seaboard.

Ib., 73. DECEMBER 16, 1872.

On motion by Mr. Windom,

The Senate proceeded to consider the resolution submitted by him on the 9th instant for the appointment of a select committee of five members to whom shall be referred so much of the President's message as relates to transportation routes to the seaboard; and Mr. Windom having modified the said resolution,

On motion by Mr. Frelinghuysen to amend the resolution by striking out all after the word "Resolved," and in lieu thereof inserting, "that so much of the President's message as relates to transportation routes to the seaboard be referred to the Committee on Commerce,"

It was determined in the negative.

On the question to agree to the resolution and preamble as follows:

Whereas the productions of our country have increased much faster than the means of transportation, and the growth of population and products will in the near future demand additional facilities, and cheaper ones, to reach tide water; and

Whereas in his recent message the President of the United States invites the attention of Congress to the fact that "it will be called upon at its present session to consider various enterprises for the more certain and cheaper transportation of the constantly increasing western and southern products to the Atlantic seaboard;" and further says, "The subject is one that will force itself upon the legislative branch of the Government sooner or later, and I suggest, therefore, that immediate steps be taken to gain all available information to insure equitable and just legislation, * * * I would therefore suggest either a committee or a commission to be authorized to consider the whole question, and to report to Congress at some future day for its better guidance in legislating on this important subject:" Therefore,

Resolved, That a committee of seven be appointed, to whom shall be referred that part of the President's message relating to transportation routes to the seaboard,

After debate,

It was determined in the affirmative, { Yeas ..... 56 / Nays ..... 3 }

[The names are omitted.]

So the resolution was agreed to.

Ordered, That the committee provided for by the foregoing resolution be appointed by the Vice-President.

[The committee was appointed December 17. (J. of S., 75.) For the debate see Congressional Globe, 3d sess. 42d Cong., 205, 206.]

CIVIL SERVICE AND RETRENCHMENT.

1st sess. 43d Cong., J. of S. 34.] DECEMBER 4, 1873.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be amended by inserting after the Committee on Education and Labor the words, *a Committee on Civil Service and Retrenchment, to consist of seven members.*

ON RULES.

2d sess. 43d Cong., J. of S., 28.] DECEMBER 9, 1874.

Mr. Anthony submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That there be added to the standing committees of the Senate a committee to be known as the Committee on Rules, to consist of three members.

2d sess. 46th Cong., J. of S., 322.] MARCH 10, 1880.

Mr. Morgan submitted the following resolution, which was referred to the Committee on Rules:

Resolved, That the forty-seventh standing rule of the Senate be amended as follows:

In the part of said forty-seventh rule which reads as follows: "A Committee on Rules, to consist of three Senators," strike out "three," and insert *five* so that the rule will read: "Committee on Rules, to consist of five Senators."

2d sess. 46th Cong., J. of S., 330.] MARCH 12, 1880.

Mr. Morgan, from the Committee on Rules, reported the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the forty-seventh standing rule of the Senate be so amended as that the Committee on Rules shall consist of five Senators instead of three Senators, as is now provided by said rule.

ON IMPROVEMENT OF THE MISSISSIPPI RIVER.

1st sess. 46th Cong., J. of S., 8.] MARCH 19, 1879.

Mr. Wallace submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Rule XLVII be amended by adding thereto the following words:

A Committee on the Improvement of the Mississippi River and its tributaries, to consist of seven Senators;

A Committee on Transportation Routes to the Seaboard, to consist of seven Senators.

And that the said rule be further amended by making the Committee on Agriculture to consist of seven members; the Committee on the Judiciary of nine members; the Committee on Indian Affairs of nine members, the Committee on Pensions of nine members; and the Committee on the District of Columbia of nine members, and the Committee on Patents of seven members.

ON EXPENDITURES OF PUBLIC MONEY.

1st sess. 47th Cong., J. of S., 161.] JANUARY 9, 1882.

Mr. Davis, of West Virginia, submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Rules consider and report upon the expediency of adding to the committees of the Senate a committee to be known as the "Committee on Expenditures of Public Money," said committee to have power to hold sessions during the recess of the Senate.

1st sess. 47th Cong., J. of S , 408.] MARCH 13, 1882.

Mr. Hoar, from the Committee on Rules, who were instructed by a resolution of the Senate of January 9, 1882, to inquire into the propriety of recommending the appointment of a Committee on Expenditures of Public Money, reported the following resolution:

Resolved, That there shall be a Committee on Expenditures of Public Money, composed of seven Senators, who shall consider such measures tending to economy in public expenditure as shall be referred to it, and conduct all investigations into the expenditure of public money which shall be ordered by the Senate.

1st sess. 47th Cong., J. of S., 419.] MARCH 14, 1882.

On motion by Mr. Hoar,

The Senate proceeded to consider the resolution yesterday reported by him for the appointment of a committee of seven Senators on Expenditures of Public Money.

On motion by Mr. Edmunds to amend the resolution,

After debate,

On motion by Mr. Plumb,

Ordered, That the further consideration thereof be postponed to to-morrow.

[Cong. Record, 1st sess. 47th Cong., 1883–1885.]

1st sess. 48th Cong., J. of S., 259.] FEBRUARY 5, 1884.

Mr. Sherman submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the hereinafter named committees of the Senate should be constituted as follows:

* * * * * * *

On Expenditures of Public Moneys.—Mr. Wilson, Chairman; Mr. Harrison, Mr. Plumb, Mr. Platt, Mr. Beck, Mr. George, Mr. Kenna.

2d sess. 50th Cong., J. of S., 566.] MARCH 12, 1889.

Mr. Platt submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That so much of Rule XXV of the standing rules of the Senate as prescribes the duties of the Committee on the Expenditures of Public Money be, and is hereby repealed.

ON FISH AND FISHERIES.

1st sess. 48th Cong., J. of S., 259.] FEBRUARY 5, 1884.

Mr. Sherman submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the hereinafter named committees of the Senate should be constituted as follows:

* * * * * * *

On Fish and Fisheries.—Mr. Lapham, Chairman; Mr. Sewell, Mr. Frye, Mr. Palmer, Mr. Morgan, Mr. Groome, and Mr. Farley.

ON COAST DEFENSES, EPIDEMIC DISEASES, AND TO EXAMINE THE BRANCHES OF THE CIVIL SERVICE.

2d sess. 48th Cong., J. of S., 572.] MARCH 13, 1885.

Mr. Cameron submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the following constitute the standing committees of the Senate for the Forty-ninth Congress.

* * * * * * *

On Coast Defences.—Mr. Dolph, Chairman; Mr. Cameron, Mr. Sewell, Mr. Hawley, Mr. Maxey, Mr. McPherson, and Mr. Fair.

* * * * * * *

On Epidemic Diseases.—Mr. Harris, Chairman; Mr. Hampton, Mr. Eustis, Mr. Sewell, Mr. Spooner, and Mr. Stanford.

To Examine the Several Branches of the Civil Service.—Mr. Sabin, Chairman; Mr. Cullom, Mr. Allison, and Mr. Hampton.

1st sess. 49th Cong., J. of S., 85.] DECEMBER 14, 1885.

Mr. Allison submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That until the expiration of the Forty-ninth Congress the Committee on Appropriations shall consist of ten members, and that the additional member be appointed by the Chair.

1st sess. 49th Cong., J. of S., 86.] DECEMBER 15, 1885.

When Mr. Logan submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the United States Senate, That the Committee on Military Affairs be increased to ten instead of nine during the Forty-ninth Congress, and that the President *pro tempore* of the Senate appoint the additional member of the committee.

ON THE CENSUS AND INTERSTATE COMMERCE.

1st sess. 50th Cong., J. of S., 18.] DECEMBER 12, 1887.

Mr. Hoar submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the following constitute the standing committees of the Senate for the Fiftieth Congress:

* * * * * * *

On the Census.—Messrs. Hale, Chairman; Morrill, Wilson, of Iowa, Stockbridge, Davis, Berry, Blackburn, Blodgett, and Turpie.

* * * * * * *

On Interstate Commerce.—Messrs. Cullom, Chairman; Platt, Blair, Wilson, of Iowa, Hiscock, Harris, Gorman, Eustis, Reagan.

2d sess. 50th Cong., J. of S., 126.] JANUARY 8, 1889.

Mr. Hale submitted the following resolution, which was referred to the Committee on Rules:

Resolved, That two Senators be added to the standing Committee on the Census, to be appointed by the President of the Senate.

1st sess. 49th Cong., J. of S., 1217.] JULY 31, 1886.

Ordered, That two additional members of the Committee on Enrolled Bills be appointed by the President *pro tempore* to serve during the remainder of the present session; and

The President *pro tempore* appointed Mr. Palmer and Mr. Jones of Arkansas.

1st sess. 49th Cong., J. of S., 479.] MARCH 26, 1888.

Mr. Blair submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That an additional member be appointed by the President of the Senate to serve temporarily upon the Committee on Pensions;

Whereupon,

The President *pro tempore* appointed Mr. Sawyer as the additional member of the committee.

ON METHODS OF BUSINESS IN THE EXECUTIVE DEPARTMENTS.

2d sess. 50th Cong., J. of S., 563.] MARCH 5, 1889.

Mr. Cockrell submitted the following resolution, which was ordered to lie on the table and be printed:

Resolved, That a committee of the senate, to be composed of five Senators, and to be designated the Committee on Methods of Business in the Executive Departments and the Causes of Alleged Delay in its Transaction, be constituted.

ON IMMIGRATION.

1st sess. 51st Cong., J. of S., 39.] DECEMBER 12, 1889.

Mr. Platt submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Rule XXV be amended by inserting after the clause relating to the Committee on Foreign Relations the following, namely:

A Committee on Immigration, to consist of nine Senators.

Mr. Platt submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That a select committee of seven Senators, to be called the Committee on Indian Depredations, be appointed, to whom shall be referred all questions relating to the payment of claims arising out of Indian depredations.

Mr. Platt submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That so much of Rule XXV as relates to the Committee on Coast Defences, the Committee on Mines and Mining, and the Committee on Public Buildings and Grounds be amended to read as follows:

A Committee on Coast Defences, to consist of nine Senators;

A Committee on Mines and Mining, to consist of nine Senators;

A Committee on Public Buildings and Grounds, to consist of nine Senators, who shall have power to act jointly with the same committee of the House of Representatives.

Mr. Platt submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That during the Fifty-first Congress the membership of each of the following committees be increased to ten Senators, namely: The Committee on Post-Offices and Post-Roads, the Committee on Territories, the Committee on Public Lands, the Committee on Pensions.

APPOINTMENT.

1 J. of S., 332.] OCTOBER 31, 1791.

On motion to alter the rule which provides for balloting in the choice of committees, and that the Vice-President be empowered to nominate the committees in the future,

It was agreed that the motion be postponed.

1st sess. 17th Cong., J. of S., 34.] DECEMBER 20, 1821.

Mr. King, of New York, submitted the following motion for consideration:

Ordered, That until otherwise directed all committees be hereafter appointed by the President of the Senate; which was read; and

Ordered, That it pass to the second reading.

[Laid on the table December 28, (p. 45).]

2d sess. 17th Cong., J. of S., 132.] FEBRUARY 6, 1823.

Mr. Eaton submitted the following motion for consideration:

Resolved, That the thirty-first rule for conducting business in the Senate be amended to read as follows:

A nominating committee to consist of five members shall be chosen on the third day of each session, by ballot, and a majority of votes shall be necessary to a choice; the duty of which committee shall be, as soon as may be, to appoint and report to the Senate for confirmation, the several committees authorized by the thirtieth rule for conducting business in the Senate. But when any subject or matter shall be referred to a committee, any other subject or matter of similar nature, may, on motion, be referred to such committee.

[Laid on the table February 7, (Ib. 135).]

1st sess. 18th Cong., J. of S., 28.] DECEMBER 9, 1823.

Resolved, That the thirty-first rule for conducting business in the Senate be so amended as to read:

All committees shall be appointed by the presiding officer of this House, unless specially ordered otherwise by the Senate.

[No debate is reported (Ann. of Cong. 1st sess., 18th Cong., Vol. 1, 25 and 26). Immediately afterwards the Senate, by election apparently, appointed the committees.]

1st sess. 18th Cong., J. of S., 25.] DECEMBER 5, 1823.

Mr. Eaton submitted the following resolution for consideration, which was read:

Resolved, That five persons shall be chosen by ballot of the Senate on the —— day of each session, who shall act as chairmen of the Committee of Foreign Relations, of Finance, of Commerce and Manufactures, Military Affairs, and of the Judiciary, as the persons elected may themselves arrange, and as early as practicable thereafter they shall appoint four members to serve in each of said committees; and proceed also to appoint the rest of the committees required by the thirtieth rule for conducting business in the Senate, and make report thereof to the Senate.

Ordered, That it pass to a second reading.

Mr. Barbour submitted the following resolution for consideration, which was read:

Resolved, That all committees be appointed by the presiding officer of this House, unless specially ordered otherwise by the Senate.

Ordered, That it pass to the second reading.

1st sess. 19th Cong., J. of S., 240.] APRIL 13, 1826.

Mr. Randolph submitted the following motion:

Resolved, That the thirty-first rule of the Senate, as modified December 9, 1823, viz: "All committees shall be appointed by the Presiding Officer of this House, unless specially ordered otherwise by the Senate," be rescinded, and that the following rule be established as the rule:

Resolved, That all committees shall be appointed by ballot, unless specially ordered otherwise by the Senate.

[G. and S. Reg., Vol. 2, pt. 1, 525.]

Ib., 246.] APRIL 15, 1826.

On motion by Mr. Randolph,

The Senate resumed the consideration of the resolution submitted by him on the 13th instant, and it was modified by him to read as follows:

Resolved, That the thirty-first rule of the Senate, as modified December 9, 1823, be rescinded; and that the said rule as it existed previous to said modification be restored as the rule for appointing committees.

On the question to agree to [this] resolution,

It was decided in the affirmative, { Yeas ..... 40 / Nays 2

[G. and S. Reg., Vol. 2, 571–573.]

2d sess. 19th Cong., J. of S., 27.] DECEMBER 8, 1826.

Mr. Chambers then submitted the following motion, which was read and considered:

Resolved, That in the appointment of the standing committees, the Senate will proceed by severally appointing the chairman of each committee; and then, by one ballot, for the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman.

On the question to agree to the said resolution,

It was determined in the affirmative, { Yeas ..... 19 / Nays 25

2d sess. 20th Cong., J. of S., 51.] DECEMBER 24, 1828.

The following motion submitted yesterday by Mr. Eaton was considered and agreed to:

Resolved, That the thirty-fourth rule for conducting business in the Senate be amended to read as follows:

The President pro tempore of the Senate shall appoint the committees of the Senate; but if there be no President pro tempore, the Senate, in the appointment of the standing committees, will proceed by ballot severally to appoint the chairman of each committee, and then by one ballot the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. When other committees shall be appointed by ballot, a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may on motion be referred to such committee.

1st sess. 21st. Cong, J. of S., 5.] DECEMBER 7, 1829.

On motion by Mr. White, and by unanimous consent,

Resolved, That the thirty-fourth rule for conducting business in the Senate be so far suspended as to authorize the Senate, in the absence of the Vice-President, to elect by ballot the chairman of the Committee on Finance.

Ib. 23.] DECEMBER 9, 1829.

On motion by Mr. Woodbury,

The Senate proceeded, by ballot, to the election of the Chairman of the Committee on Finance; and, on counting the ballots, it appeared that the Honorable Mr. Smith, of Maryland, had a majority of the votes, and was accordingly elected.

The President then announced the appointment of the standing committees as follows: * * *

2d. sess. 21st Cong. J. of S., 5.] DECEMBER 7, 1830.

[The Hon. Samuel Smith, of Maryland, President *pro tempore*, being in the chair.]

On motion by Mr. Woodbury, and by unanimous consent.

Resolved, That the thirty-fourth rule for conducting business in the Senate be suspended so far as to authorize the Senate, in the absence of the Vice-President, to elect by ballot the chairman of the Committee on Finance.

The Senate proceeded to ballot for a chairman of the Committee on Finance; and, on counting the ballots, it appeared that the Hon. Mr. Smith, of Maryland, had a majority of the votes, and was accordingly elected.

The President then announced the appointment of the standing committees, as follows:

* * * * * * *

1st. sess. 23d Cong., J. of S., 44.] DECEMBER 16, 1833.

Agreeably to the order of the day, the Senate proceeded to the appointment by ballot of the standing committees in conformity with the thirty-fourth rule; and,

Mr. Wilkins having been duly appointed chairman of the Committee on Foreign Relations,

On motion by Mr. Poindexter,

Ordered, That the appointment of the remaining members of that committe be postponed until after the appointment of the chairman of each of the other standing committees.

The Senate proceeded accordingly to the said appointments by ballot.

* * * * * * *

The Senate then proceeded to the appointment by ballot of the remaining members of each of said committees.

2d sess. 23d Cong., J. of S., 5.] DECEMBER 2, 1834.

On motion by Mr. Grundy, and by unanimous consent,

Resolved, That the thirty-fourth rule of the Senate, so far as respects the Committee on the Post-Office and Post-Roads be suspended, and that the present committee [consisting of Mr. Grundy, Mr. Ewing, Mr. Knight, Mr. Robinson, and Mr. Southard] on the Post-Offices and Post-Roads be continued with all the powers vested in them, and subject to all the duties enjoined on them by the resolution of the Senate of the 25th day of June 1834.

[Ib., 27. The same resolution was passed *mutatis mutandis* in regard to the Committee on Public Lands.]

1st sess. 25th Cong., J. of S., 27.] SEPTEMBER 7, 1837.

On motion by Mr. Clay, and by unanimous consent,

Resolved, That so much of the thirty-fourth rule as requires the appointment of the several standing committees by ballot, at the present session, be suspended, and that their appointment be made by the President of the Senate.

[G. and S. Reg., Vol. 14 pt. 1, 5.]

2d sess. 25th Cong., J. of S., 26.] DECEMBER 6, 1837.

On motion by Mr. Grundy, and by unanimous consent,

It was agreed that the Vice-President appoint the standing committees of the Senate for the present session.

3d sess. 25th Cong., J. of S., 25.] DECEMBER 5, 1838.

Mr. Hubbard submitted the following motion; which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be so far suspended that the Presiding Officer shall appoint for the present session the members of all the standing committees of the Senate, with the exception of the chairman of the Committee on Commerce; and that the Senate shall, previous to any such appointment, elect, by ballot, the chairman of that committee.

[Mr. King, the President *pro tempore*, was elected chairman of the Committee on Commerce. Ib., 26.]

[1st sess. 26th Cong., J. of S., 10. December 14, 1839, the same course was pursued. Mr. King being elected chairman of the Committee on Commerce, appointed the rest of the committees.]

[2d sess. 26th Cong., the Thirty-fourth rule was suspended and committees appointed by the President *pro tempore*, with the exception of the chairman of the Committee on Commerce, the President *pro tempore* being chosen by ballot for that position.]

1st sess. 27th Cong., J. of S., 18.] JUNE 2, 1841.

Agreeably to the order of the day, the Senate proceeded, in pursuance of the thirty-fourth rule of the Senate, to the appointment, by ballot, of the standing committees; and the following chairmen of the several committees were appointed:

* * * * * * *

On motion by Mr. King, and by unanimous consent,

Resolved, That the thirty-fourth rule of the Senate be so far suspended that the President *pro tempore* shall appoint the remaining members of the several standing committees.

1st sess. 28th Cong., J. of S., 7.] DECEMBER 5, 1843.

Mr. Bayard submitted the following resolution, which was considered by unanimous consent and agreed to:

Resolved, That the thirty-fourth rule of the Senate be so far suspended that the Presiding Officer of the Senate shall appoint, for the present session, the standing committees of the Senate.

1st sess. 29th Cong., J. of S., 7.] DECEMBER 2, 1845.

Mr. Breese submitted the following resolution for consideration:

Resolved, That so much of the thirty-fourth rule as requires the appointment of the several standing committees by ballot, at the present session, be suspended, and that the appointments be made by the President of the Senate.

Ib., 36.] DECEMBER 4, 1845.

On the question to agree thereto,

It was determined in the negative { Yeas ..... 20 / Nays 21

So the resolution was disagreed to.

On motion by Mr. Mangum,

Ordered, That the Senate proceed to the appointment of standing committees on Monday, the 8th instant.

[The question was debated at length. (See. Cong. Globe, 1st sess. 29th Cong., 19-22.) December 9 part of the chairmen were elected (ib., 39), and the rest on the 10th (ib., 42).]

The Senate proceeded to the appointment of the remaining members of the several standing committees, in pursuance of the thirty-fourth rule of the Senate; and

The President of the Senate having announced the state of the ballots for the members of the Committee on Foreign Relations,

On motion by Mr. Sevier,

Ordered, That the members of the said committee be arranged as follows: Mr. Cass, Mr. Archer, Mr. Sevier, Mr. Atherton.

The Senate having balloted for the remaining members of the Committee on Finnace, the President of the Senate announced the state of the ballots.

On motion by Mr. Sevier,

That the members of the said committee be arranged as follows: Mr. Lewis, Mr. Evans, Mr. Benton, and Mr. Jenness.

On motion by Mr. Berrien,

The Senate adjourned.

2d sess. 29th Cong., J. of S., 39.] DECEMBER 10, 1846.

Mr. Lewis submitted the following resolution:

Resolved, That the Vice-President be authorized to appoint the standing committees of the Senate.

The Senate proceeded to consider the motion by unanimous consent; and

On the question to agree thereto,

It was determined in the negative.

Ib., 40.] DECEMBER 14, 1846.

The Senate, in pursuance of the thirty-fourth rule, proceeded to the appointment by ballot of the standing committees; and the following chairmen were appointed, to wit:

[Of the committees on Foreign Relations, Finance, Commerce, Manufactures, Agriculture, Military Affairs.]

Whereupon,

On motion by Mr. Mangum,

Ordered, That the thirty-fourth rule be suspended so far as relates to the appointment by ballot of the remaining chairmen and the members of the several standing committees; and that the following be the standing committees of the Senate:

[Then follows the list of assignments.]

1st sess. 30th Cong., J. of S., 45.] DECEMBER 13, 1847.

The Senate proceeded, in pursuance of the thirty-fourth rule, to appoint the chairmen of the several standing committees; and the following chairmen were appointed. * * *

Ib., 47.] DECEMBER 14, 1847.

On motion by Mr. Sevier, and by unanimous consent,

Ordered, That the thirty-fourth rule be suspended so far as relates to the appointment by ballot of the remaining members of the several standing committees; and that the following be the standing committees of the Senate.

1st sess., 32d Cong., J. of S., 34.] DECEMBER 8, 1851.

On motion by Mr. Bright,

Ordered, That so much of the thirty-fifth rule of the Senate as relates to the appointment of the standing committees be suspended.

On motion of by Mr. Bright, and by unanimous consent,

Ordered, That the following standing committees be appointed:

A Committee on Foreign Relations, consisting of, etc. * * *

1st sess. 34th Cong., J. of S., 10.] DECEMBER 12, 1855.

On motion by Mr. Cass,

The Senate proceeded, in conformity to the thirty-fourth and thirty-fifth rules, to the appointment, by ballot, of the standing committees; and the following committees were appointed.

* * * * * * *

On motion by Mr. Cass, and by unanimous consent,

Ordered, That further balloting for committees be suspended.

On motion by Mr. Cass, and by unanimous consent,

Ordered, That [certain Senators named be the following committees, viz: On Contingent Expenses, Public Buildings, Engrossed Bills, Enrolled Bills, and Library].

On motion by Mr. Cass,

The Senate adjourned.

Ib., 14.] DECEMBER 13, 1855.

On motion, by Mr. Cass,

Ordered, That the members of the standing committees of the Senate be arranged as follows:

[The order is somewhat different from that of their election as given on page 10 of the Journal.]

2d sess. 36th Cong., J. of S., 34.] DECEMBER 10, 1860.

Mr. Bigler submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the several standing committees of the Senate, as they were arranged at the close of the last session of Congress, be, and the same are hereby, reappointed for the present session, and that all vacancies be filled by the President of the Senate.

3d sess. 37th Cong., J. of S., 449.] MARCH 5, 1863.

Mr. Anthony submitted the following resolution for consideration:

Resolved, That the President *pro tempore* be authorized to appoint the standing committees of the Senate for this special session, and also the members of the joint committees.

The Senate proceeded, by unanimous consent, to consider the said resolution; and,

On motion by Mr. Fessenden to amend the resolution by striking out all after the word "*Resolved*," and in lieu thereof inserting: *That for the purposes of this session the standing committees be continued as constituted at the last session of the Senate, and that the President pro tempore be authorized to fill vacancies wherever the same may be necessary*,

It was determined in the negative, { Yeas ..... 14 / Nays 22

On the question to agree to the resolution submitted by Mr. Anthony,

It was determined in the affirmative.

[Cong. Globe, 3d sess. 37th Cong., 1554.]

3d sess. 46th Cong., J. of S., 416.] MARCH 11, 1881.

On motion by Mr. Pendleton,

The Senate proceeded to consider the resolution yesterday submitted by him for the appointment of the standing committees of the Senate.

On motion by Mr. Davis, of Illinois.

Ordered, That in the arrangement of the names of the members of the Committee on the Judiciary, the name of Mr. Garland be made to precede that of his own as the proposed chairman of the said committee.

Mr. Conkling then raised a question of order, viz, that, under the sixty-first rule of the Senate, which requires one day's notice in writing to suspend, modify, or amend any rule or any part thereof, no formal motion having been made to suspend the operation of Rule XLVI of the Senate, which provides for the appointment of the chairmen and other members of the standing committees, the further consideration of the said resolution was not in order.

The Vice-President sustained the question of order, and decided that, as no motion had been made to suspend Rule XLVI, it must be ordered, first, that the appointment of the committees be made in some other way than by ballot, and that the further consideration of the resolution was not now in order.

From the decision of the Chair Mr. Pendleton appealed to the Senate.

On the question, "Shall the decision of the chair stand as the judgment of the Senate?"

Pending debate,

On motion by Mr. Harris,

The Senate proceeded to the consideration of executive business; and

After the consideration of executive business the doors were opened.

Mr. Pendleton, by unanimous consent of the Senate, withdrew his appeal taken from the decision of the Chair on the question of order raised by Mr. Conkling.

Thereupon Mr. Conkling, by unanimous consent of the Senate, withdrew his question of order.

On motion by Mr. Pendleton, at 4 o'clock p. m., the Senate adjourned until Monday next.

[The resolution submitted by Mr. Pendleton was debated March 14 (ib. 417), March 16 (ib. 421). March 17, Alonzo J. Edgerton appointed a Senator by the Governor of the State of Minnesota to fill the vacancy occasioned by the resignation of William Windom, appeared and took his seat. March 18, William P. Frye elected a Senator by the legislature of the State of Maine to fill the vacancy caused by the resignation of James G. Blaine, took his seat.]

Ib. 423.] MARCH 18, 1881.

The Senate resumed the consideration of the resolution submitted by Mr. Pendleton on the 10th instant providing for the appointment of the standing committees of the Senate.

On motion by Mr. Anthony that the said resolution be postponed indefinitely,

The yeas were 37, and the nays 37.

[The names are omitted.]

The Senate being equally divided the Vice-President voted in the affirmative.

So the motion was agreed to.

* * * * * * *

Mr. Anthony submitted the following resolution; which was considered by unanimous consent.

Resolved, That the following be the standing committees of the Senate during the present session:

* * * * * * *

On the question to agree to the resolution,

The yeas were 37 and the nays were 37.

[The names are omitted.]

The Senate being equally divided the Vice-President voted in the affirmative.

So the resolution was agreed to.

1st sess. 47th Cong., J. of S., 11.] OCTOBER 12, 1881.

Mr. Edmunds submitted the following resolution for consideration; which was ordered to be printed:

Resolved, That the standing committees of the Senate as they were constituted at the close of the last session of the Senate be continued for the present session and that the President *pro tempore* be authorized to fill up any vacancies now existing in said committees respectively.

1st sess. 47th Cong., J. of S., 12.] OCTOBER 13, 1881.

On motion by Mr. Edmunds,

The Senate proceeded to the consideration of the resolution submitted by him on the 11th instant, providing for the appointment of the standing committees of the Senate.

On motion by Mr. Garland to amend the resolution as follows, viz: In line 2, after the word "Senate" insert the following:

Excepting the committees on Appropriations, Manufactures, Private Land Claims, Agriculture, Revolutionary Claims, District of Columbia, Patents, Territories, Railroads, Mines and Mining, Revision of the Laws of the United States, Education and Labor, Civil Service and Retrenchment, Engrossed Bills, Improvement of the Mississippi River and its Tributaries, Transportation Routes to the Seaboard,

After debate,

It was determined in the negative, { Yeas ..... 35 / Nays 37

On motion by Mr. Edmunds,

The yeas and nays being desired by one-fifth of the Senators present,

[The names are omitted.]

So the amendment was not agreed to.

On the question to agree to the resolution,

It was determined in the affirmative, { Yeas ..... 35 / Nays 37

On motion by Mr. Harris,
The yeas and nays being desired by one-fifth of the Senators present,
[The names are omitted.]
So it was
Resolved, That the standing committees of the Senate as they were constituted at the close of the last session of the Senate be continued for the present session, and that the President *pro tempore* be authorized to fill up any vacancies now existing in said committees respectively.

1st sess. 47th Cong., J. of S., 429.] MARCH 16, 1882.

Mr. Call submitted the following resolution; which was referred to the Committee on Rules:
Resolved, That the following rule be adopted as the seventy-ninth standing rule of the Senate:
No Senator shall be a member of more than one of the following committees, except by a special resolution of the Senate, namely: The Committees on Commerce, Naval Affairs, Military Affairs, Appropriations, Finance, Foreign Relations, Public Lands, Post-Offices and Post-Roads.

2d sess. 51st Cong., J. of S., 229.] MARCH 3, 1891.

Mr. Allison submitted the following resolution; which was considered by unanimous consent and agreed to:
Resolved, That the standing and select committees of the Senate as now constituted be, and they are hereby, continued, with power to act until the first Monday in December, 1891, or until their successors are elected.
[Cong. Rec., 3908.]
[Though the rule still requires the choice of the committees to be made by ballot, it is customary to suspend the rule and appoint them by resolution.]

2d sess. 50th Cong., J. of S., 576.] MARCH 29, 1889.

Mr. Call submitted the following resolution; which was ordered to lie on the table and be printed:
Resolved, I. That the committees of the Senate shall be organized with reference to the equality of States and their Senators in the rights, privileges, and powers of the Senate.
II. That Senators shall not be assigned to more than one of the following committees: Appropriations, Military Affairs, Naval Affairs, Judiciary, Foreign Relations, Finance, Post-Offices and Post-Roads, Public Lands, Commerce, Interstate Commerce, until after each Senator shall have been assigned to one of said committees.
III. That seniority of service shall give preference to the assignment of committees and chairmanships, unless otherwise ordered by the Senate.
IV. That the following standing committees, namely, Appropriations, Military Affairs, Naval Affairs, Judiciary, Foreign Relations, Finance, Post-Offices and Post-Roads, Public Lands, Commerce, and Interstate Commerce, shall be composed of eleven Senators.

1st sess. 34th Cong., J. of S., 377.] JUNE 12, 1856.

Mr. Hamlin was, on his motion, excused from serving as chairman of the Committee on Commerce.

Ib., 378.] JUNE 13, 1856.

On motion by Mr. Stuart,
Ordered, That the President *pro tempore* appoint a chairman to the Committee on Commerce in the place of Mr. Hamlin, who was excused from serving as chairman of that committee.

2d sess. 37th Cong., J. of S., 98.] JANUARY 10, 1862.

On motion by Mr. Sumner,
Ordered, That the Vice-President appoint a member to fill the vacancy in the Committee on Foreign Relations occasioned by the expulsion of Trusten Polk; and
The Vice-President appointed Mr. Davis a member of the said committee.
[Other vacancies caused by expulsion were filled in the same way. (Ib., 104, 149, 192.)]

1st sess. 49th Cong., J. of S., 548.] APRIL 12, 1886.

Mr. Beck submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Mr. Randall L. Gibson be, and he hereby is, appointed a member of the Committee on Commerce to serve in the place of Mr. Charles W. Jones during his present temporary absence from the Senate.

1st sess. 49th Cong., J. of S., 642.] APRIL 27, 1886.

Mr. Beck submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Washington C. Whitthorne be, and he hereby is, appointed a member of the Committee on Claims, the Committee on Pensions, and the Committee on the Tenth Census; and that he be appointed a member of the Committee on Naval Affairs, to serve in the place of Mr. Charles W. Jones during his present temporary absence from the Senate.

2d sess. 44th Cong., J. of S., 144.] JANUARY 22, 1877.

Mr. Merrimon submitted the following resolution, which was referred to the Committee on the Judiciary:

Resolved, That it is not within the lawful authority of the Senate to charge committees composed of Senators with duties to be performed away from the Capitol while the Senate is in session.

TO WAIT ON THE PRESIDENT.

[The following committees are not standing committees, but as they are always appointed at the beginning and end of the session, these precedents are inserted.]

1 J. of S., 90.] SEPTEMBER 26, 1789.

Resolved, That Messrs. Johnson and Izard be a committee on the part of the Senate, together with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States and acquaint him that Congress have agreed upon a recess on the 29th instant.

Ib., 91.] SEPTEMBER 28, 1789.

A message from the House of Representatives:

Mr. Beckley, their clerk, informed the Senate that the House had concurred in the appointment of a committee on their part, "to wait on the President of the United States, and to acquaint him of the intended recess of Congress on the 29th instant," and that Messrs Vining, Lee, and Gilman, were joined, and he withdrew.

1 J. of S., 102.] JANUARY 6, 1790.

Ordered, That Messrs. Strong and Izard be a committee on the part of the Senate, with such committee as the House may appoint on their part, to inform the President of the United States that a quorum of the two Houses is assembled, and will be ready in the Senate chamber, at such time as the President may appoint, to receive any communication he may be pleased to make.

Ib., 102.] JANUARY 7, 1790.

A message from the House of Representatives.

Mr. President. The House of Representatives have appointed Messrs. Gilman, Ames, and Seney, a committee on their part, to wait on the President of the United States.

* * * * * * *

Mr. Strong, on behalf of the joint committee, reported to the Senate that they had waited on the President of the United States, agreeably to the order of both houses, and that he informed the committee that he would meet the two houses in the Senate chamber to-morrow at 11 o'clock.

INDEX.

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